

EXPORT-IMPORT BANK REAUTHORIZATION ACT OF 2006

—————  
JULY 17, 2006.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed  
—————

Mr. OXLEY, from the Committee on Financial Services,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 5068]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5068) to reauthorize the operations of the Export-Import Bank, and to reform certain operations of the Bank, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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## AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Export-Import Bank Reauthorization Act of 2006”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Reauthorization.
- Sec. 4. Increasing exports by small businesses.
- Sec. 5. Office of financing for socially and economically disadvantaged small business concerns and small business concerns owned by women.
- Sec. 6. Sub-Saharan Africa.
- Sec. 7. Extension of authority.
- Sec. 8. Transparency initiatives.
- Sec. 9. Effect of the Bank on the budget of the United States.
- Sec. 10. Competitiveness initiatives.
- Sec. 11. Consideration of environmental matters by the Advisory Committee.
- Sec. 12. Study of how Export-Import Bank could assist United States exporters to meet import needs of new or impoverished democracies; reports.
- Sec. 13. Review of environmental screening requirement.
- Sec. 14. Office of Renewable Energy Promotion.
- Sec. 15. Transparency.
- Sec. 16. Anti-circumvention.
- Sec. 17. Performance standards applicable to Bank assistance for small businesses, especially those owned by social and economically disadvantaged individuals and those owned by women.
- Sec. 18. Prohibition on assistance to develop or promote any rail connections or railway-related connections that traverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey, and that specifically exclude cities in Armenia.
- Sec. 19. Technical corrections.
- Sec. 20. Effective date.

**SEC. 3. REAUTHORIZATION.**

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking “2006” and inserting “2011”.

**SEC. 4. INCREASING EXPORTS BY SMALL BUSINESSES.**

(a) ESTABLISHMENT OF SMALL BUSINESS DIVISION.—

(1) IN GENERAL.—Section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a) is amended by adding at the end the following:

“(f) SMALL BUSINESS DIVISION.—

“(1) ESTABLISHMENT.—The President of the Bank shall establish and maintain a division of the Bank whose sole functions shall be to—

“(A) carry out subparagraphs (E) and (I) of section 2(b)(1), as such subparagraphs relate to outreach, feedback, product improvement, and transaction advocacy for small business concerns;

“(B) advise and seek feedback from small business concerns of the opportunities and benefits for small business concerns in the financing products offered by the Bank, with particular emphasis on conducting outreach, better tailoring products to small business needs and increasing loans to small business concerns employing fewer than 100 employees; and

“(C) maintain liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns.

“(2) MANAGEMENT.—The division shall be managed by a Bank officer designated by the Board of Directors—

“(A) who shall have substantial recent experience in financing exports by small business concerns;

“(B) whose sole executive duty shall be to ensure that the division carries out the functions of the division;

“(C) who shall advise the Board, particularly the Director appointed under section 3(c)(8)(B) to represent the interests of small business, on matters of interest to, and concern for, small business;

“(D) who shall rank not lower than senior vice president of the Bank; and

“(E) who shall report directly to the President of the Bank.

“(3) RESOURCES.—

“(A) IN GENERAL.—The President of the Bank shall ensure that the division has sufficient qualified staff and budgetary resources to carry out subparagraphs (E) and (I) of section 2(b)(1), as determined annually by the President of the Bank, after consultation with—

“(i) the officer referred to in paragraph (2) of this subsection;  
 “(ii) the Director appointed under subsection (c)(8)(B) of this section;  
 “(iii) the Committee on Financial Services of the House of Representatives; and  
 “(iv) the Committee on Banking, Housing, and Urban Affairs of the Senate.

“(B) USES.—

“(i) IN GENERAL.—The President of the Bank shall ensure that the staff and budgetary resources of the division are devoted solely to carrying out the functions of the division.

“(ii) CERTAIN STAFF DUTIES.—The division shall include staff dedicated exclusively to providing outreach, training, and advice to, seeking feedback from, and advocating on behalf of small business concerns regarding Bank financing opportunities, products, and programs.

“(C) RULE OF INTERPRETATION.—Nothing in this Act shall be construed to prevent the delegation to the division of any authority necessary to carry out subparagraphs (E) and (I) of section 2(b)(1).

“(4) SMALL BUSINESS CONCERN DEFINED.—In this subsection and subsections (g) and (h), the term ‘small business concern’ shall have the meaning established under section 3(a) of the Small Business Act.

“(g) HANDLING OF APPLICATIONS OF, AND PROCESSING OF TRANSACTIONS INVOLVING SMALL BUSINESS CONCERNS.—Consistent with the requirement that the Bank obtain a reasonable assurance of repayment for each transaction the Bank supports, the Bank shall establish and maintain transaction standards tailored to the special circumstances of small business concerns and shall use the standards in evaluating applications by the concerns for Bank financing. The Bank shall ensure that each appropriate division of the Bank has staff dedicated to the processing of transactions involving small business concerns.

“(h) SMALL BUSINESS COMMITTEE.—

“(1) ESTABLISHMENT.—The Bank shall establish and maintain a committee to be known as the ‘Small Business Committee’.

“(2) PRINCIPAL PURPOSE.—The principal purpose of the Small Business Committee shall be to focus on small business concerns and coordinate the efforts of the Bank with respect to small business concerns, including the timely processing of small business product applications and the evolution of new or improved Bank products to better serve small business needs.

“(3) COMPOSITION.—

“(A) CHAIRMAN.—The chairman of the Small Business Committee shall be the Senior Vice President of the Bank who is responsible for management of the Small Business Division of the Bank.

“(B) OTHER MEMBERS.—The President of the Bank shall ensure that the committee is comprised of officers and employees throughout the Bank that have responsibility for outreach and processing transactions involving small business concerns.

“(4) REPORTS.—The Small Business Committee shall report to the President of the Bank.”

(2) COORDINATION IN FINANCING OF SMALL BUSINESS EXPORTS.—Section 2(b)(1)(E)(vii)(I) of such Act (12 U.S.C. 635(b)(1)(E)(vii)(I)) is amended by adding at the end the following: “The Bank shall work in coordination with the entities described in the preceding sentence to streamline the processing of applications for Bank financing from small business concerns and to provide training and advice as required on the needs and benefits of export financing for small business concerns.”

(b) REPORT ON FEES CHARGED TO, AND TRANSACTIONS COSTS INCURRED BY, SMALL AND MEDIUM BUSINESS FOR BANK SERVICES.—Section 8 of such Act (12 U.S.C. 635g) is amended by adding at the end the following:

“(f) REPORT ON FEES CHARGED TO, AND TRANSACTIONS COSTS INCURRED BY, SMALL AND MEDIUM BUSINESS FOR BANK SERVICES.—The Bank shall submit to the Congress annually, and include in a separate section of the annual report to the Congress under subsection (a) of this section, a report on—

“(1) with respect to each type of transaction, the interest and fees charged by the Bank to exporters (including a description of fees and interest, if any, charged to small business concerns), buyers, and other applicants in connection with each financing program of the Bank, and the highest, lowest, and average fees charged by the Bank for short term insurance transactions;

“(2) the effects of the fees on the ability of the Bank to achieve the objectives of the Bank relating to small business; and

“(3) the fee structure of the Bank as compared with that of other foreign export credit agencies.”

(c) REPORT ON FINANCING DIRECTED TOWARD SMALL BUSINESS.—Section 8 of such Act (12 U.S.C. 635g), as amended by subsection (b) of this section, is amended by adding at the end the following:

“(g) REPORT ON FINANCING DIRECTED TOWARD SMALL BUSINESS.—The Bank shall submit annually to the Committees on Financial Services and on Small Business of the House of Representatives—

“(1) a report on the extent to which the Bank has been able to use the authorities referred to in section 2(b)(1)(E)(iv), and, to the extent the Bank has been unable to fully do so, a report on the obstacles to doing so and on what the Bank is doing to overcome the obstacles;

“(2) a report on the extent to which financing has been made available to small business concerns to enable them to participate in exports by major contractor, including through access to the supply chains of the contractors through direct or indirect funding; and

“(3) a strategic plan of action describing how, in the upcoming year, the Bank will take specific measures to achieve the small business objectives of the Bank, including expanded outreach, product improvements, and related actions.”.

(d) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) Section 2(b)(1)(E) of such Act (12 U.S.C. 635(b)(1)(E)), as amended by subsection (a)(2) of this section, is amended—

(i) in clause (i)(II), by striking “gives fair consideration to making loans and providing” and inserting “make loans and provide”;

(ii) by striking clause (iii);

(iii) in clause (iv), by striking “clauses (ii) and (iii) of this subparagraph” and inserting “clause (ii)”;

(iv) in clause (vi)—

(I) by striking “clause (v) of this subparagraph” and insert “clause (iv)”;

(II) by striking “clause (vi)” and inserting “clause”;

(v) in clause (vii)—

(I) in subclause (I), by striking “(v)” and inserting “(iv)”;

(II) in each of subclauses (II), (III), and (IV), by striking “clause (vii)” and inserting “clause”;

(vi) by redesignating clauses (iv) through (x) as clauses (iii) through (ix), respectively.

(B) Section 8 of such Act (12 U.S.C. 635g) is amended—

(i) in subsection (b)(2)(B), by striking “2(b)(1)(E)(vii)” and inserting “2(b)(1)(E)(vi)”;

(ii) in subsection (c), by striking “(E)(x)” and inserting “(E)(ix)”.

(2) UNIFORM MEANING OF SMALL BUSINESS.—Section 2(b)(1)(E) of such Act (12 U.S.C. 635(b)(1)(E)), as amended by subsection (a)(2) of this section and paragraph (1) of this subsection, is amended—

(A) in clause (i)(II), by striking “businesses” and inserting “business concerns”;

(B) in clause (iv), by striking “(as defined under section 3 of the Small Business Act)”;

(C) in each of clauses (v), (vi) and (vii), by striking “small business exports” each place it appears and inserting “exports by small business concerns”;

(D) by adding at the end the following:

“(x) In this subparagraph, the term ‘small business concern’ shall have the meaning established under section 3(a) of the Small Business Act.”.

(e) ENHANCE DELEGATED LOAN AUTHORITY FOR MEDIUM TERM TRANSACTIONS.—

(1) IN GENERAL.—The Export-Import Bank of the United States shall seek to expand the exercise of authority under section 2(b)(1)(E)(vi) of the Export-Import Bank Act of 1945 (as so redesignated by subsection (d)(1)(A)(vi) of this section) with respect to medium term transactions for small business concerns (as defined under section 3(a) of the Small Business Act).

(2) CONFORMING AMENDMENT.—Section 2(b)(1)(E)(vi)(III) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(vi)(III)), as so redesignated by subsection (d)(1)(A)(vi) of this section, is amended by striking “To the maximum extent practicable, the” and inserting “The”.

(3) DEADLINE.—Within 180 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall make available lines of credit and guarantees to carry out section 2(b)(1)(E)(vi) of the Export-Import Bank Act of 1945 (as so redesignated by subsection (d)(1)(A)(vi) of this section), pursuant to policies and procedures established by the Board of Directors of the Export-Import Bank of the United States.

**SEC. 5. OFFICE OF FINANCING FOR SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS AND SMALL BUSINESS CONCERNS OWNED BY WOMEN.**

(a) **IN GENERAL.**—Section 3(f) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(f)), as added by section 4(a) of this Act, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following:

“(4) **OFFICE OF FINANCING FOR SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS AND SMALL BUSINESS CONCERNS OWNED BY WOMEN.**—

“(A) **ESTABLISHMENT.**—The President of the Bank shall establish in the division an office whose sole functions shall be to continue and enhance the outreach activities of the Bank with respect to, and increase the total amount of loans, guarantees, and insurance provided by the Bank to support exports by, socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act) and small business concerns owned by women.

“(B) **MANAGEMENT.**—The office shall be managed by a Bank officer of appropriate rank who shall report to the Bank officer designated under section 3(f)(2).

“(C) **STAFFING.**—To the maximum extent practicable, the President of the Bank shall ensure that qualified minority and women applicants are considered when filling any position in the office.”

(b) **FINANCING DIRECTED TOWARD SMALL BUSINESSES OWNED BY MINORITIES OR WOMEN.**—Section 2(b)(1)(E)(iv) of such Act (12 U.S.C. 635(b)(1)(E)(iv)), as so redesignated by section 4(d)(1)(A)(vi) of this Act, is amended by adding at the end the following: “From the amount made available under the preceding sentence, it shall be a goal of the Bank to make available not less than 15 percent of the amount to finance exports directly by small business concerns referred to in section 3(f)(4)(A).”

(c) **REPORT ON FINANCING DIRECTED TOWARD SMALL BUSINESSES OWNED BY MINORITIES OR WOMEN.**—Section 8(g)(1) of such Act (12 U.S.C. 635g(1)), as added by section 4(c) of this Act, is amended by inserting “and to finance exports by small business concerns referred to in section 3(f)(4)(A),” before “and, to the extent”.

(d) **REPORT ON BANK EFFORTS TO SUPPORT EXPORTS BY SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS AND SMALL BUSINESS CONCERNS OWNED BY WOMEN.**—Section 8 of such Act (12 U.S.C. 635g), as amended by section 4 of this Act, is amended by adding at the end the following:

“(h) **REPORT ON EFFORTS TO SUPPORT EXPORTS BY SMALL- AND MEDIUM-SIZED BUSINESSES OWNED BY WOMEN OR MINORITIES.**—Not later than March 1 of each year, the Director appointed under section 3(c)(8)(B) of this Act shall prepare and submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Bank shall include in a separate section of the annual report submitted pursuant to subsection (a) of this section, a written report that describes the progress made by the Bank in supporting exports by socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act) and small business concerns owned by women.”

**SEC. 6. SUB-SAHARAN AFRICA.**

(a) **EXTENSION OF ADVISORY COMMITTEE.**—Section 2(b)(9)(B)(iii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended by striking “2006” and inserting “2011”.

(b) **IMPROVED LIAISON WITH AFRICAN REGIONAL FINANCIAL INSTITUTIONS.**—

(1) **MASTER GUARANTEE AGREEMENTS.**—Within 1 year after the date of the enactment of this Act, the Export-Import Bank of the United States shall seek to ensure that there is in effect a contract between each approved lender in Africa and the Bank, which sets forth the Bank’s guarantee undertakings and related obligations between the Bank and the lender.

(2) **REPORT ON WORKING RELATIONSHIPS WITH THE AFRICAN DEVELOPMENT BANK, THE AFRICA EXPORT-IMPORT BANK, AND OTHER INSTITUTIONS.**—Section 2(b)(9) of such Act (12 U.S.C. 635(b)(9)) is amended by adding at the end the following:

“(C) The Bank shall include in the annual report to the Congress submitted under section 8(a) a separate section that contains a report on the efforts of the Bank to improve working relationships with the African Development Bank, the Africa Export-Import Bank, and other institutions in the region that are relevant to the purposes of subparagraph (A) of this paragraph.”

(c) **CLOSER COOPERATION WITH OTHER UNITED STATES AGENCIES WORKING IN AFRICA.**—Section 2(b)(9) of such Act (12 U.S.C. 635(b)(9)) is further amended by adding at the end the following:

“(D) The Bank shall closely coordinate with the United States Foreign Commercial Service and with the overall strategy of the United States Government, for eco-

conomic engagement with Africa pursuant to the African Growth and Opportunity Act.

“(E) The Bank shall develop initiatives to train Foreign Service and Commercial Service officers serving at United State embassies in Africa, in the use of Bank programs, so the officers can encourage African buyers to take part in transactions supported by the Bank.”.

(d) ADJUSTMENTS TO PROCEDURES TO PROMOTE QUALIFICATION OF AFRICAN ENTITIES.—Section 2(b)(9) of such Act (12 U.S.C. 635(b)(9)) is further amended by adding at the end the following:

“(F) Consistent with the requirement that the Bank obtain a reasonable assurance of repayment in connection with each transaction the Bank supports, the Bank shall, in consultation with the entities described in subparagraph (C), seek greater flexibility in the due-diligence procedures of the Bank for the purpose of qualifying a greater number of appropriate African entities for participation in programs of the Bank.”.

(e) LOCAL CURRENCY FINANCING.—Section 2(b)(9) of such Act (12 U.S.C. 635(b)(9)) is further amended by adding at the end the following:

“(G) The Bank shall develop procedures under which the Bank is capable of financing certain African programs in local currencies.”.

#### SEC. 7. EXTENSION OF AUTHORITY.

Section 1(c) of Public Law 103–428 (12 U.S.C. 635 note) is amended by striking “2001” and inserting “2011”.

#### SEC. 8. TRANSPARENCY INITIATIVES.

(a) FREQUENCY OF MEETINGS.—Section 3(c) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)) is amended by adding at the end the following:

“(9) The Board of Directors shall meet not less frequently than biweekly.

“(10) At the request of any 2 members of the Board of Directors, the Chairman shall place an item on the agenda for consideration by the Board. Within 30 days after the date such a request is made, the Chairman shall hold a meeting of the Board at which the item will be considered.”.

(b) VOTING REQUIRED IN CASES INVOLVING ECONOMIC IMPACT ANALYSIS.—Section 2(e) of such Act (12 U.S.C. 635(e)) is amended by adding at the end the following:

“(5) BOARD VOTE REQUIRED.—Within 60 days after completing a review, pursuant to this subsection, of a proposed loan or guarantee (including any applicable comment period), the Board of Directors shall hold a vote to determine whether or not to proceed with the proposed loan or guarantee, unless the applicant has withdrawn the application for the loan or guarantee.”.

(c) PROCESS FOR NOTIFYING APPLICANTS OF APPLICATION STATUS.—Section 2 of such Act (12 U.S.C. 635) is amended by adding at the end the following:

“(g) PROCESS FOR NOTIFYING APPLICANTS OF APPLICATION STATUS.—The Bank shall establish and adhere to a clearly defined process for—

“(1) acknowledging receipt of applications;

“(2) informing applicants that their applications are complete or, if incomplete or containing a minor defect, of the additional material or changes that, if supplied or made, would make the application eligible for consideration; and

“(3) keeping applicants informed of the status of their applications, including a clear and timely notification of approval or disapproval, and, in the case of disapproval, the reason for disapproval, as appropriate.”.

(d) RESPONSE TO APPLICATION FOR FINANCING; IMPLEMENTATION OF ONLINE LOAN REQUEST AND TRACKING PROCESS.—Section 2 of such Act (12 U.S.C. 635) is further amended by adding at the end the following:

“(h) RESPONSE TO APPLICATION FOR FINANCING; IMPLEMENTATION OF ONLINE LOAN REQUEST AND TRACKING PROCESS.—Within 5 days after receipt of an application for financing from the Bank, the Bank shall notify the applicant that the application has been received, and shall include in the notice a request for such additional information as may be necessary to make the application complete, the name of a Bank employee who may be contacted with questions relating to the application, and a unique identification number which may be used to review the status of the application at a website established as provided in the next sentence. Not later than September 1, 2006, the Bank shall use the authorities provided by subparagraphs (E)(ix) and (J) of subsection (b)(1) of this section to establish, and thereafter to maintain, a website through which any Bank product may be applied for, information may be obtained about the status of any such application, about the small business division of the Bank, or about incentives, preferences, targets, and goals relating to small business concerns referred to in section 3(f)(4)(A) or small business concerns exporting to Africa.”.

(e) REPORTS RELATING TO TECHNOLOGY TO ASSIST SMALL BUSINESSES.—

(1) REPORTS BY THE BANK.—

(A) INITIAL REPORT.—Within 60 days after the date of the enactment of this Act, the President of the Export-Import Bank of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on—

(i) the efforts made by the Bank to carry out subparagraphs (E)(ix) and (J) of section 2(b)(1) of the Export-Import Bank Act of 1945, including the total amount expended by the Bank to do so; and

(ii) if the Bank has been unable to comply with such subparagraphs—

(I) an analysis of the reasons therefor;

(II) what the Bank is doing to achieve, and the date by which the Bank expects to have achieved, such compliance; and

(III) the name of each Bank officer who is responsible for ensuring that the Bank achieves, and the name of the person to whom the Bank officer reports on progress in achieving, such compliance.

(B) SUBSEQUENT ANNUAL REPORTS.—Section 8(c) of the Export-Import Bank Act of 1945 (12 U.S.C. 635g(c)), as amended by section 4(d)(1)(B)(ii) of this Act, is amended to read as follows:

“(c) TECHNOLOGY TO ASSIST SMALL BUSINESSES.—The Bank shall include in its annual report to the Congress under subsection (a) of this section for each of fiscal years 2007 through 2011 a separate section that contains—

“(1) a report on the efforts made by the Bank to carry out subparagraphs (E)(ix) and (J) of section 2(b)(1) of this Act, the total amount expended in the fiscal year to do so, and how the efforts are assisting small business concerns (as defined under section 3(a) of the Small Business Act); and

“(2) if the Bank has been unable to comply fully with such subparagraphs—

“(A) an analysis of the reasons therefor;

“(B) a description of what the Bank is doing to achieve, and the date by which the Bank expects to have achieved, such full compliance; and

“(C) the name of each Bank officer who is responsible for ensuring that the Bank achieves, and the name of the person to whom the Bank officer reports on progress in achieving, such full compliance.”

(2) REPORT BY THE INSPECTOR GENERAL OF THE BANK.—Within 120 days after the date of the enactment of this Act or, if later, within 30 days after the date the vacancy in the position of the Inspector General of the Export-Import Bank of the United States is filled, the Inspector General of the Export-Import Bank of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate—

(A) a report on the efforts made by the Bank to carry out subparagraphs (E)(ix) and (J) of section 2(b)(1) of the Export-Import Bank Act of 1945, the total amount expended to do so, and how the efforts are assisting small business concerns (as defined under section 3(a) of the Small Business Act); and

(B) if the Bank has been unable to comply with such subparagraphs—

(i) an analysis of the reasons therefor;

(ii) a description of what the Bank is doing to achieve, and the date by which the Bank expects to have achieved, such compliance; and

(iii) the name of each Bank officer who is responsible for ensuring that the Bank achieves, and the name of the person to whom the Bank officer reports on progress in achieving, such compliance.

(f) PUBLIC DISCLOSURE OF CERTAIN DOCUMENTS.—Section 11(a)(1) of the Export-Import Bank of 1945 (12 U.S.C. 635i-5(a)(1)) is amended by inserting after the first sentence the following: “Such procedures shall provide for the public disclosure of environmental assessments and supplemental environmental reports required to be submitted to the Bank, including remediation or mitigation plans and procedures, and related monitoring reports. The preceding sentence shall not be interpreted to require the public disclosure of any information described in section 1905 of title 18, United States Code.”

#### SEC. 9. EFFECT OF THE BANK ON THE BUDGET OF THE UNITED STATES.

Within 90 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall submit to the appropriate committees of the Congress a report on the revenues, expenditures, and resulting annual net income or expense to the United States for each of the 10 years most recently completed before the date of the report.

#### SEC. 10. COMPETITIVENESS INITIATIVES.

(a) EXPANSION OF SCOPE OF ANNUAL COMPETITIVENESS REPORT.—

(1) CONSOLIDATION AND REORGANIZATION OF PROVISIONS.—The Export-Import Bank Act of 1945 (12 U.S.C. 635–635i-9) is amended by inserting after section 8 the following:

**“SEC. 8A. ANNUAL COMPETITIVENESS REPORT.**

“(a) IN GENERAL.—Not later than June 30 of each year, the Bank shall submit to the appropriate committees of the Congress a report that includes the following:

“(1) ACTIONS OF BANK IN PROVIDING FINANCING ON A COMPETITIVE BASIS, AND TO MINIMIZE COMPETITION IN GOVERNMENT-SUPPORTED EXPORT FINANCING.—A description of the actions of the Bank in complying with the 2nd and 3rd sentences of section 2(b)(1)(A). In this part of the report, the Bank shall include a survey of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with United States exporters (including through use of market windows (as defined in section 10(h)(7)) and indicate in specific terms the ways in which the Bank’s rates, terms, and other conditions compare with those offered from such other governments directly or indirectly. With respect to the preceding sentence, the Bank shall use all available information to estimate the annual amount of export financing available from each such government and government-related agency. In this part of the report, the Bank shall include a survey of a representative number of United States exporters and United States commercial lending institutions which provide export credit to determine the experience of the exporters and institutions in meeting financial competition from other countries whose exporters compete with United States exporters.

“(2) ROLE OF BANK IN IMPLEMENTING STRATEGIC PLAN PREPARED BY THE TRADE PROMOTION COORDINATING COMMITTEE.—A description of the role of the Bank in implementing the strategic plan prepared by the Trade Promotion Coordinating Committee in accordance with section 2312 of the Export Enhancement Act of 1988.

“(3) TIED AID CREDIT PROGRAM AND FUND.—The report required by section 10(g).

“(4) PURPOSE OF ALL BANK TRANSACTIONS.—A description of all Bank transactions which shall be classified according to their principal purpose, such as to correct a market failure or to provide matching support.

“(5) EFFORTS OF BANK TO PROMOTE EXPORT OF GOODS AND SERVICES RELATED TO RENEWABLE ENERGY SOURCES.—A description of the efforts undertaken under section 2(b)(1)(K).

“(6) SIZE OF BANK PROGRAM ACCOUNT.—A separate section which—

“(A) compares the size of the Bank program account with the size of the program accounts of the other major export-financing facilities referred to in paragraph (1); and

“(B) makes recommendations with respect to the relative size of the Bank program account, based on factors including whether the size differences are in the best interests of the United States taxpayer.

“(7) CO-FINANCING PROGRAMS OF THE BANK AND OF OTHER EXPORT CREDIT AGENCIES.—A separate section which describes the co-financing programs of the Bank and of the other major export-financing facilities referred to in paragraph (1), which shall include a list of which countries with which the United States has in effect a memorandum of understanding relating to export credit agency co-financing and an explanation of why such a memorandum is not in effect with the countries with which such a memorandum is not in effect.

“(8) AFTER-MARKET SERVICES SUPPORT BY THE BANK AND BY OTHER EXPORT CREDIT AGENCIES.—A separate section which describes the participation of the Bank in providing funding, guarantees, or insurance for after-market services, which shall include appropriate information on the involvement of the other major export-financing facilities referred to in paragraph (1) in providing such support for after-market services, and an explanation of any differences among the facilities in providing the support.

“(9) EXPORT FINANCE CASES NOT IN COMPLIANCE WITH THE ARRANGEMENT.—Detailed information on cases of export finance that are not in compliance with the Arrangement (as defined in section 10(h)(3)) or that exploit loopholes in the Arrangement for the purpose of obtaining a commercial competitive advantage.

“(10) FOREIGN EXPORT CREDIT AGENCY ACTIVITIES NOT CONSISTENT WITH THE WTO AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES.—A description of the extent to which the activities of foreign export credit agencies and other entities sponsored by a foreign government, particularly those that are not members of the Arrangement (as defined in section 10(h)(3)), are not in compliance with the Arrangement and may not be consistent with the terms of the Agreement on Subsidies and Countervailing Measures referred to in section

101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)), and a description of the actions taken by the United States Government to address the activities.

“(b) BOARD VOTE ON REPORT REQUIRED.—The Board of Directors shall vote to approve and shall sign each report required by subsection (a).

“(c) INCLUSION OF DISSENTING VIEWS, ETC.—Each report required by subsection (a) shall include such dissenting views and additional comments as any member of the Board of Directors may submit to the Board for inclusion in the report.”.

(2) CONFORMING AMENDMENT.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is amended by striking all that follows the 3rd sentence.

(b) REPORT ON INVOLVEMENT OF THE BANK AND OF OTHER EXPORT CREDIT AGENCIES IN REGIONAL MULTI-BUYER INSURANCE PROGRAMS AND WORKING-CAPITAL GUARANTEE PROGRAMS.—Section 8 of such Act (12 U.S.C. 635g), as amended by sections 4 and 5 of this Act, is amended by adding at the end the following:

“(i) REPORT ON INVOLVEMENT OF THE BANK AND OF OTHER EXPORT CREDIT AGENCIES IN REGIONAL MULTI-BUYER INSURANCE PROGRAMS AND WORKING-CAPITAL GUARANTEE PROGRAMS.—The Bank shall include in its annual report to the Congress under subsection (a) of this section a separate section that contains a report on—

“(1) regional multi-buyer insurance programs and working capital guarantee programs operated by, through, or in conjunction with the Bank, which shall include an analysis of the effectiveness of the programs and of how effective the programs would be in increasing export-related jobs in the United States if the programs were larger;

“(2) the size of similar programs of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with United States exporters (including through use of market windows (as defined in section 10(h)(7)); and

“(3) as a detailed explanation, with respect to the programs, of the working relationship between the Bank and the Small Business Administration, the Department of Commerce, and other United States Government agencies concerned with increasing the number of export-related jobs in the United States.”.

(c) CLARIFICATION OF USE OF TIED AID CREDIT FUND TO MATCH.—Section 10 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3) is amended—

(1) in subsection (a)—

(A) in paragraph (5)—

(i) in the matter preceding subparagraph (A), by striking “two” and inserting “3”;

(ii) in subparagraph (A)(iv), by striking “and”; and

(iii) by adding at the end the following:

“(C) third, the Bank should support United States exporters when the exporters face foreign competition that is supported by foreign export credit agencies or other entities sponsored by a foreign government that are not party to the Arrangement; and”;

(B) in paragraph (6)—

(i) in the matter preceding subparagraph (A), by inserting “including those that are not a party to the Arrangement” after “countries”;

(ii) in subparagraph (B), by adding “and” at the end; and

(iii) by inserting after subparagraph (B) the following:

“(C) promoting compliance with Arrangement rules among foreign export credit agencies that are not a party to the Arrangement.”;

(2) in subsection (b)—

(A) in paragraph (2)(A), by striking “in consultation with the Secretary and”; and

(B) in paragraph (5)—

(i) in subparagraph (A), by striking “Secretary and the Bank jointly” and inserting “Bank”;

(ii) in subparagraph (B)—

(I) in clause (i)—

(aa) in the matter preceding subclause (I), by striking “Secretary and the”;

(bb) in subclause (I), by inserting “, and to bring into the Arrangement those countries that are not a party to the Arrangement” before the period; and

(cc) in subclause (III), by adding at the end the following “In cases where information about a specific offer of foreign tied aid (or untied aid used to promote exports as if it were tied aid) is not available in a timely manner, or is unavailable because the foreign export credit agency involved is not subject

to the reporting requirements under the Arrangement, then the Bank may decide to use the Tied Aid Credit Fund based on credible evidence of a history of such offers under similar circumstances or other forms of credible evidence.”; and

(II) in clause (ii), by adding at the end the following: “The President of the United States shall notify the Congress of such a determination within 30 days, including an explanation for the determination.”;

(iii) in subparagraph (C), by striking “the Secretary and”; and

(iv) in subparagraph (E), by striking “Secretary and the Bank jointly” and inserting “Bank”.

(d) **EXPANSION OF COUNTRIES IN COMPETITION WITH WHOM THE BANK IS TO PROVIDE EXPORT FINANCING.**—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is amended in the 2nd sentence by inserting “, including countries the governments of which are not members of the Arrangement (as defined in section 10(h)(3))” before the period.

(e) **AUTHORITY TO SEEK USE OF MIXED FORMS OF CONCESSIONAL FINANCING.**—Section 10 of such Act (12 U.S.C. 635i-3) is amended by adding at the end the following:

“(i) **AUTHORITY TO SEEK USE OF MIXED FORMS OF CONCESSIONAL FINANCING.**—For purposes of improving the effects of Bank financing on development in tied aid eligible markets (as defined under the Arrangement) and of improving the competitiveness of the Bank in the markets, the Bank shall, in consultation with United States government aid agencies and, as appropriate, multilateral aid institutions, seek to establish, consistent with the Arrangement, a mixed credit program consisting of longer term financing and other forms of more flexible repayment terms, financing of transactions in local currencies, and other forms of concessional financing that meets the needs of the product sector and foreign market involved.”.

(f) **INSTRUCTIONS REGARDING NEGOTIATION OF THE OECD ARRANGEMENT.**—The Secretary of the Treasury shall instruct the designee of the Secretary to the negotiation of the Arrangement (as defined in section 10(h)(3) of the Export-Import Bank Act of 1945) to inform the other participants in the negotiation that the goals of the United States include the following:

(1) Seeking compliance with the Arrangement among countries with significant export credit programs who are not members of the Arrangement.

(2) Seeking to identify within the World Trade Organization the extent to which countries that are not a party to the Arrangement are not in compliance with the terms of the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)) in regards to export finance, and seeking appropriate action within the World Trade Organization if such a country is not in such compliance.

(3) Implementing new disciplines on the use of untied aid, market windows, and other forms of export finance that seek to exploit loopholes in the Arrangement for purposes of obtaining a commercial competitive advantage.

**SEC. 11. CONSIDERATION OF ENVIRONMENTAL MATTERS BY THE ADVISORY COMMITTEE.**

Section 3(d) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “15” and inserting “17”; and

(B) in subparagraph (B), by inserting “environment,” before “production,”; and

(2) in paragraph (2), by adding at the end the following:

“(C) Not less than 2 members appointed to the Advisory Committee shall be representative of the environmental nongovernmental organization community, except that no 2 of the members shall be from the same environmental organization. Environmental organizations represented shall have demonstrated experience with environmental issues associated with the Bank, the Export Credit Group of the Organization for Economic Cooperation and Development, or both.”.

**SEC. 12. STUDY OF HOW EXPORT-IMPORT BANK COULD ASSIST UNITED STATES EXPORTERS TO MEET IMPORT NEEDS OF NEW OR IMPOVERISHED DEMOCRACIES; REPORTS.**

(a) **STUDY.**—The Export-Import Bank of the United States shall conduct a study designed to assess the needs of new or impoverished democracies such as Liberia and Haiti, for imports from the United States, and shall determine what role the Bank can play a role in helping United States exporters seize the opportunities presented by the need for such imports.

(b) **REPORTS TO THE CONGRESS.**—

(1) **INTERIM REPORT.**—Within 6 months after the date of the enactment of this Act, the Bank shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs

of the Senate, in writing, an interim report that contains the results of the study required by subsection (a).

(2) FINAL REPORT.—Within 12 months after the date of the enactment of this Act, the Bank shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, in writing a final report that contains the results of the study required by subsection (a).

**SEC. 13. REVIEW OF ENVIRONMENTAL SCREENING REQUIREMENT.**

(a) IN GENERAL.—Within 6 months after the position of Inspector General of the Export-Import Bank of the United States is filled, the Inspector General of the Export-Import Bank of the United States shall submit to the Committee on Resources and the Committee on Financial Services of the House of Representatives, and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the implications of limiting the requirement to conduct environmental screenings of projects proposed to be financed by the Bank to only those involving at least \$10,000,000.

(b) CONTENTS OF REPORT.—The report shall—

(1) determine whether the \$10,000,000 limitation prevents the identification of any project that may have an adverse effect on the environment; and

(2) propose guidelines for how project applications may be screened more effectively to determine whether a project may have such an effect.

**SEC. 14. OFFICE OF RENEWABLE ENERGY PROMOTION.**

Section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a), as amended by section 4(a)(1) of this Act, is amended by adding at the end the following:

“(i) OFFICE OF RENEWABLE ENERGY PROMOTION.—

“(1) ESTABLISHMENT.—Within 1 year after the date of the enactment of this subsection, the President of the Bank shall establish and maintain in the Bank an office which shall be known as the ‘Office of Renewable Energy Promotion’ (in this subsection referred to as the ‘Office’).

“(2) FUNCTIONS.—The Office shall be responsible for proactively identifying new opportunities for renewable energy financing and carrying out section 2(b)(1)(K). In carrying out its function of promoting renewable energy technologies, the Office should, among other things, consider the recommendations made by the Renewable Energy Export Advisory Committee.

“(3) STAFF.—The President of the Bank shall ensure that the Office has staff with appropriate expertise in renewable energy technologies.

“(4) ANNUAL REPORTS.—The Bank shall submit annually to the Committee on Resources and the Committee on Financial Services of the House of Representatives, and to the Committee on Banking, Housing, and Urban Affairs of the Senate, a report that contains, for the fiscal year covered by the report—

“(A) a detailed description of the activities of the Office; and

“(B) an analysis comparing the level of credit extended by the Bank for renewable energy projects with the level of credit so extended for the preceding fiscal year.

“(5) RENEWABLE ENERGY TECHNOLOGIES DEFINED.—In this subsection, the term ‘renewable energy technologies’ means technologies for producing power through the use of solar energy, wind energy, and energy from biomass, fuel cells, or geothermal sources, and technologies for producing less than 10 megawatts in hydropower.”.

**SEC. 15. TRANSPARENCY.**

(a) IN GENERAL.—Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)), as amended by section 8(b) of this Act, is amended by adding at the end the following:

“(6) PROCEDURES TO REDUCE ADVERSE EFFECTS OF LOANS AND GUARANTEES ON INDUSTRIES AND EMPLOYMENT IN UNITED STATES.—

“(A) CONSIDERATION OF ECONOMIC EFFECTS OF PROPOSED TRANSACTIONS.—If, in making a determination under this paragraph with respect to a loan or guarantee, the Bank conducts a detailed economic impact analysis or similar study, the analysis or study, as the case may be, shall include consideration of—

“(i) the factors set forth in subparagraphs (A) and (B) of paragraph (1); and

“(ii) the views of the public and interested parties.

“(B) NOTICE AND COMMENT REQUIREMENTS.—

“(i) IN GENERAL.—If, in making a determination under this subsection with respect to a loan or guarantee, the Bank intends to conduct a detailed economic impact analysis or similar study, the Bank

shall cause to be published in the Federal Register a notice of the intent, and provide a period of not less than 14 days (which, on request by any affected party, shall be extended to a period of not more than 30 days) for the submission to the Bank of comments on the economic effects of the provision of the loan or guarantee. In addition, the Bank shall seek comments on the effects from the Department of Commerce, the International Trade Commission, the Office of Management and Budget, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

“(ii) CONTENT OF NOTICE.—The notice shall include appropriate, non-proprietary information about—

“(I) the name of the applicant;

“(II) the country to which the goods involved in the transaction will be shipped;

“(III) the type of goods being exported;

“(IV) the amount of the loan or guarantee involved;

“(V) the goods that would be produced as a result of the provision of the loan or guarantee;

“(VI) the amount of increased production that will result from the transaction;

“(VII) the potential sales market for the resulting goods;

“(VIII) the value of the transaction; and

“(IX) any other relevant information.

“(iii) PROCEDURE REGARDING MATERIALLY CHANGED APPLICATIONS.—

“(I) IN GENERAL.—If a material change is made to an application for a loan or guarantee from the Bank after a notice with respect to the intent described in clause (i) is published under this subparagraph, the Bank shall cause to be published in the Federal Register a revised notice of the intent, and shall provide for a comment period, as provided in clauses (i) and (ii).

“(II) MATERIAL CHANGE DEFINED.—In subclause (I), the term ‘material change’, with respect to an application, includes—

“(aa) a change of at least 25 percent in the amount of a loan or guarantee requested in the application; and

“(bb) a change in the principal product to be produced as a result of any transaction that would be facilitated by the provision of the loan or guarantee.

“(C) REQUIREMENT TO CONSIDER AND ADDRESS VIEWS OF ADVERSELY AFFECTED PERSONS.—Before taking final action on an application for a loan or guarantee from the Bank to which this subsection applies, the Bank shall consider and address in writing the views of any person who may be substantially adversely affected by the provision of the loan or guarantee.

“(D) PUBLICATION OF CONCLUSIONS.—Within 30 days after a party affected by a final decision of the Board of Directors with respect to a loan or guarantee makes a written request therefor, the Bank shall provide to the affected party a non-confidential summary of the facts found and conclusions reached in any detailed economic impact analysis or similar study conducted pursuant to subparagraph (B) with respect to the loan or guarantee, that were submitted to the Board of Directors.

“(E) RULE OF INTERPRETATION.—This paragraph shall not be construed to make subchapter II of chapter 5 of title 5, United States Code, applicable to the Bank.

“(F) REGULATIONS.—The Bank shall implement such regulations and procedures as may be appropriate to carry out this paragraph.”.

(b) CONFORMING AMENDMENT.—Section 2(e)(2)(C) of such Act (12 U.S.C. 635(e)(2)(C)) is amended by inserting “of not less than 14 days (which, on request of any affected party, shall be extended to a period of not more than 30 days)” after “comment period”.

#### SEC. 16. ANTI-CIRCUMVENTION.

Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)), as amended by sections 8(b) and 15(a) of this Act, is amended—

(1) in paragraph (1), by adding after and below the end the following:

“In making the determination under subparagraph (B), the Bank shall determine whether the facility that would benefit from the extension of a credit or guarantee is reasonably likely to produce products in addition to or other than the product specified in the application and whether the production of the prod-

ucts may cause substantial injury to United States producers of the same, or a similar or competing, commodity.”;

(2) in paragraph (2), by adding at the end the following:

“(E) ANTI-CIRCUMVENTION.—The Bank shall not provide a loan or guarantee if the Bank determines that providing the loan or guarantee will facilitate circumvention of a trade law order or determination referred to in subparagraph (A).”; and

(3) by adding at the end the following:

“(7) FINANCIAL THRESHOLD DETERMINATIONS.—For purposes of determining whether a proposed transaction exceeds a financial threshold under this subsection or under the procedures or rules of the Bank, the Bank shall aggregate the dollar amount of the proposed transaction and the dollar amounts of all loans and guarantees, approved by the Bank in the preceding 24-month period, that involved the same foreign entity and substantially the same product to be produced.”.

**SEC. 17. PERFORMANCE STANDARDS APPLICABLE TO BANK ASSISTANCE FOR SMALL BUSINESSES, ESPECIALLY THOSE OWNED BY SOCIAL AND ECONOMICALLY DISADVANTAGED INDIVIDUALS AND THOSE OWNED BY WOMEN.**

(a) DEVELOPMENT OF PERFORMANCE STANDARDS.—Within 120 days after the date of the enactment of this Act, the Comptroller General of the United States shall develop and transmit to the Board of Directors of the Export-Import Bank of the United States—

(1) a set of standards which may be used to determine the extent to which the Bank has carried out successfully subparagraphs (E) and (I) of section 2(b)(1) of the Export-Import Bank Act of 1945, and the functions described in subsections (f)(1)(A), (f)(4)(A), and (h)(2) of section 3 of such Act; and

(2) a set of rules for measuring the performance of the Bank against the standards.

(b) REPORT ON PERFORMANCE.—Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635g), as amended by sections 4, 5, and 10(b) of this Act, is amended by adding at the end the following:

“(j) REPORT ON ACHIEVEMENT OF PERFORMANCE STANDARDS APPLICABLE TO SMALL BUSINESS CONCERNS, SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS, AND SMALL BUSINESS CONCERNS OWNED BY WOMEN.—The Bank shall submit annually to the Congress, and include in a separate section of the annual report to the Congress under subsection (a) of this section, a report on the extent to which the Bank has carried out successfully subparagraphs (E) and (I) of section 2(b)(1), and the functions described in subsections (f)(1)(A), (f)(4)(A), and (h)(2) of section 3, of this Act, using the performance standards and measuring rules developed pursuant to section 12(a) of the Export-Import Bank Reauthorization Act of 2006.”.

**SEC. 18. PROHIBITION ON ASSISTANCE TO DEVELOP OR PROMOTE ANY RAIL CONNECTIONS OR RAILWAY-RELATED CONNECTIONS THAT TRAVERSE OR CONNECT BAKU, AZERBAIJAN, TBILISI, GEORGIA, AND KARS, TURKEY, AND THAT SPECIFICALLY EXCLUDE CITIES IN ARMENIA.**

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

“(13) The Bank shall not guarantee, insure, extend credit, or participate in an extension of credit in connection with the development or promotion of any rail connections or railway-related connections that do not traverse or connect with Armenia, and do traverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey.”.

**SEC. 19. TECHNICAL CORRECTIONS.**

Section 2(b)(2)(B)(ii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)(B)(ii)) is amended by striking subclauses (I), (III), (VII), (VIII), and (IX), and redesignating subclauses (II), (IV), (V), and (VI) as subclauses (I) through (IV), respectively.

**SEC. 20. EFFECTIVE DATE.**

The amendments made by this Act shall take effect on October 1, 2006.

PURPOSE AND SUMMARY

H.R. 5068, the “Export-Import Bank Reauthorization Act of 2006,” was introduced on March 30, 2006. This legislation seeks a five-year reauthorization of the Bank and proposes changes to Bank operations in a number of areas to improve its accessibility

to small businesses and its competitiveness with other nations' export credit agencies.

#### BACKGROUND AND NEED FOR LEGISLATION

The Export-Import Bank of the United States ("Ex-Im" or the "Bank") was created by Congress in 1934 to help stimulate foreign trade during the Great Depression and increase employment of U.S. workers. Since its founding, the Bank has financed and facilitated the export of U.S. goods and services by assuming risks that the private sector will not generally accept. Ex-Im issues guarantees to help private lenders engage in trade finance and offers competitive financing directly to foreign buyers of U.S. goods and services. Last year the Bank conducted more than 3100 transactions, supporting over \$17.9 billion in export value, and returned over \$1.7 billion to the U.S. Treasury in the form of fees.

The Bank's charter requires that the Bank supplement—and not compete with—the private sector. The Bank funds only transactions that have "a reasonable assurance of repayment" in order to help insulate taxpayers from assuming inappropriate risks of loss associated with trade finance transactions. H.R. 5068 will ensure that the bank continues to fulfill this mission and also proposes changes that would allow the Bank to better support U.S. exports, sustain economic growth, and create jobs in the United States.

H.R. 5068, the "Export-Import Bank Reauthorization Act of 2006," was introduced on March 30, 2006, by Chairman Pryce with Chairman Oxley, Ranking Member Frank, and Reps. Maloney, Biggert, Velazquez and Manzullo as original co-sponsors. This legislation calls for a five-year reauthorization of the Bank. In addition, H.R. 5068 proposes changes to Bank operations in a number of areas to improve its accessibility to small businesses and its competitiveness with other nations' export credit agencies.

H.R. 5068 calls for the creation of a new office to focus solely on the small business community, with particular emphasis on conducting outreach and increasing loans to small businesses owned by women, minorities, and the socially and economically disadvantaged. The division would maintain a liaison with the Small Business Administration and other related agencies and would be managed by a Senior Vice President at the Bank—reporting directly to the Chairman—who is familiar with small business transactions and has a dedicated budget and qualified staff.

Under this reorganization the Bank should be better suited to fulfill its mandate, as set out in the 2002 reauthorization, of "(making) available, from the aggregate loan, guarantee, and insurance authority available to it, an amount to finance exports directly for small business concerns which shall be not less than 20 percent of such authority for each fiscal year." Additional provisions contained in H.R. 5068 are intended to streamline the processing of applications for Bank assistance for small businesses and to ensure that small businesses are not charged excessive transaction fees by the Bank. An annual report of these fees, as well as reports on financing directed to small businesses, will help ensure the Bank's accountability and keep the Congress updated on its progress.

The legislation establishes a goal that 15 percent of Ex-Im Bank lending for small businesses should be devoted to women and mi-

nority owned businesses. In setting this goal, the Committee recognizes that Ex-Im Bank cannot legally require the provision of information with respect to whether exporters qualify as socially and economically disadvantaged small business concerns or small business concerns owned by women. As a result, Ex-Im Bank is not able to precisely determine the percentage of total Ex-Im Bank authorizations that represent support for such companies and must rely on voluntary reporting by such companies for this determination. Nonetheless, the Committee strongly encourages Ex-Im Bank to make every effort to maximize support for socially and economically disadvantaged small business concerns or small business concerns owned by women, and the 15 percent goal in the legislation is a useful target for Ex-Im Bank in this regard.

In recognition of the growing number of U.S. businesses seeking export opportunities in Africa, H.R. 5068 includes provisions to encourage the Bank to work more closely with African countries and institutions. H.R. 5068 requires the Bank to seek greater flexibility in its procedures when working with African entities; extends authorization for the Bank's advisory committee on Sub-Saharan Africa until 2011; and seeks to ensure that agreements are in place between each approved lender in Africa and the Bank that clearly set forth the obligations between the Bank and lenders. Additionally, H.R. 5068 calls for a report on the efforts of the Bank to improve working relationships with the African Development Bank and the Africa Export-Import Bank and directs the Bank to better coordinate efforts with other U.S. agencies dealing with Africa, including the United States Foreign Commercial Service.

Frequently-voiced criticisms of the Bank often center on the Board of Directors' ("Board") decision-making procedures and the handling of loan applications. H.R. 5068 addresses these concerns by requiring biweekly meetings of Board members and a mandatory Board vote within 60 days on cases that involve assistance which could yield a net adverse economic impact on U.S. production and employment. H.R. 5068 would also require the Bank to inform applicants within a specified amount of time that their applications have been received. In addition, the Bank would be required to establish and adhere to a process for informing applicants on the progress of those applications as well as whether or not an application is complete.

To ensure that, in its decision-making process, the Bank has full access to all necessary information from all relevant sources, the Committee is increasing the transparency of the process by, for example, providing for: (1) upon request of an affected party, a notice and comment period of 30 days for all loan or guarantee applications subject to an economic impact analysis; (2) issuance of a revised notification if there is a material change in the application after the initial notice; and (3) the opportunity for public review of a summary of the facts found and conclusions reached of an economic impact analysis subsequent to the Bank's taking action on an application.

H.R. 5068 also focuses on the Bank's online capabilities. The business community has been frustrated by the Bank's inability to make products and services available through the Internet. By requiring that the Bank do a better job of keeping applicants informed of the status of their applications (including a clear and

timely notification of approval or disapproval) H.R. 5068 will ensure that the Bank will be more responsive to American exporters. H.R. 5068 calls for implementation of an on-line loan requests and tracking process by September, 2006.

Ex-Im is required by existing statute to be fully competitive with the export credit agencies of other countries so that U.S. exporters are not at a commercial disadvantage when they compete with foreign exporters. Ex-Im has focused its efforts to date on its traditional competitors within the OECD like Canada, Germany, and Japan. But China has emerged in recent years as the biggest threat to a level playing field in export financing. China's export credit agency is projected to be the largest in the world within five years and operates outside of the rules system that governs export credit, the so-called "OECD Arrangement".

The Committee is concerned by reports from U.S. exporters that they are unable to compete in some foreign markets due to non-OECD compliant export subsidies provided by the Chinese government to Chinese companies.

This legislation seeks to ensure that Ex-Im is fully competitive with China and other countries that currently operate in violation of the OECD Arrangement rules. It also requires Treasury to seek to bring China and other non-OECD countries (to the extent these countries provide significant export credit support) into the OECD rules system and to seek appropriate actions within the WTO for on-going violations of the rules.

In order to improve Ex-Im's overall competitiveness, this legislation also clarifies the rules regarding the Tied Aid Credit Fund. The Committee believes that existing rules and procedures limit the effectiveness of this fund, which is intended to allow Ex-Im to match the offer of competing export credit agencies on certain transactions. The Committee believes the fund is a legitimate tool for export finance that has been underutilized in recent years. The legislation improves Ex-Im's ability to make timely decisions on potential tied aid fund transactions, while maintaining an appropriate role for the Department of Treasury.

The Committee recognizes that the Tied Aid Credit Fund alone is inadequate in addressing the competitive threat posed by China's export subsidy practices, and we expect Ex-Im will consider all of the export finance tools at its disposal in determining the most effective ways to compete with China's export credit practices.

The Committee believes that one way Ex-Im can be more competitive in developing country markets is through the creation of a mixed credit facility. This legislation directs Ex-Im to create such a facility, which would allow for financing terms that are appropriate to the circumstances in these markets. The legislation also requires that the facility be compliant with the OECD Arrangement rules, so that Ex-Im mixed credit support is properly targeted toward markets and sectors where it will have a positive development impact.

The Committee notes that financial institutions including the Overseas Private Investment Corporation and the World Bank's International Finance Corporation and Multilateral Investment Guarantee Agency have established accountability mechanisms in recognition of the limitations of mechanisms within existing institutional structures to ensure accountability and compliance with

environmental, social, labor, human rights and transparency standards.

The Committee recognizes that: (1) Ex-Im's mission is to create and maintain U.S. jobs by providing financing support for U.S. exports and is not developmental as is the case with the aforementioned institutions, and (2) Ex-Im is required by its Charter to rely upon other agencies for consideration of labor and human rights issues. While acknowledging the foregoing, the Committee urges Ex-Im to ensure that there exists within the Bank an accountability function that would: (1) evaluate and report on the Bank's compliance with these standards, where applicable to its operations; (2) provide a forum for receiving and responding to concerns from the public regarding the environmental and social impacts of specific Bank-supported projects; and (3) provide recommendations regarding how to bring such specific projects into compliance with applicable standards and guidelines.

The Committee believes such a function should serve as a mechanism that will be accessible and responsive primarily to persons living and working in project areas either directly or through their representatives and to environmental organizations. The Bank should ensure that sufficient resources are available to carry out the accountability function and that the Bank staff that is charged with carrying out the function has an appropriate degree of autonomy.

In developing the accountability function, the Bank should consult with multiple stakeholders and seek input from the existing Office of Accountability at the Overseas Private Investment Corporation regarding its experience thus far.

An issue of concern to the Committee, addressed in this legislation, is protection against circumvention of trade law applicable to grantees of Bank loans and guarantees. In making a determination as to whether the financing of a facility will affect global surplus of a specific product, it is important that the Bank look beyond the product listed in the application and make an independent judgment as to whether the facility is reasonably likely to be used for producing other goods that are in global surplus. If the facility is reasonably likely to be used for producing other goods in global surplus, the Bank should conduct an analysis and make a determination with respect to the production of these goods as well as for the product identified in the application.

In making a determination of whether a proposed financing would facilitate production of a product that is the subject of an order or determination under U.S. trade law, the Bank also should ensure that the financing will not enable the circumvention of the intent of a trade law action. For example, a manufacturer whose product is subject to an antidumping order in one country should not be able to circumvent that order by receiving a Bank financing for a facility to produce substantially the same product in another country.

Likewise, a new producer generally should not be eligible for a Bank financing to establish a facility to produce a product in a country in which producers are already subject to antidumping orders with respect to substantially the same product. Nor should a manufacturer with a product under order be able to benefit from Bank financing to establish the capacity to transform or further

process the product under order into a related product not under order where such transformation or further processing is reasonably foreseeable.

For example, if production of hot rolled steel is subject to a trade law order, the Bank should not provide financing to facilitate further processing of that hot rolled steel into cold rolled or corrosion resistant steel. The trade order circumvention provision should not be implemented mechanically, but, as a general rule and when consistent with the intent of the provision, the Bank's inquiry into the likelihood of trade order circumvention should include products at least two steps upstream or downstream in the production cycle from the listed product.

The statute and the Bank's procedures establish thresholds based on the value of a proposed financing that trigger an economic impact analysis or trade law determination by the Bank. In order to prevent attempts to circumvent these thresholds by breaking one large transaction into several smaller ones, financing thresholds are to be aggregated for all financings involving the same foreign buyer and substantially the same product approved within a 24-month period. When the Bank conducts an economic impact analysis based on the aggregation of financings, the outcome of that analysis will affect only those applications that had not been acted on at the time the analysis is initiated.

#### HEARINGS

The Subcommittee on Domestic and International Monetary Policy, Trade and Technology and the Subcommittee on Oversight and Investigations held a hearing on November 10, 2005 on the progress made by the Export-Import Bank of the United States in implementing its most recent reauthorization. The following witnesses testified: The Honorable James H. Lambright, Chairman and Acting President, Export-Import Bank of the United States; Mr. Joseph Watters, Director of International Sales, Hoffman International, on behalf of Small Business Exporters Association; Mr. Harry G. Hayman, Senior Vice President, PNC Bank N.A., on behalf of Bankers Association for Finance and Trade; Mr. John D. Sabroske, Director, Export Credit and Trade Finance, John Deere Credit.

The Subcommittee on Domestic and International Monetary Policy, Trade and Technology held a hearing on April 5, 2006, on H.R. 5068, a bill to reauthorize the Export-Import Bank of the United States. The following witnesses testified: The Honorable James H. Lambright, Chairman and Acting President, Export-Import Bank of the United States; Mr. Edmund B. Rice, President, Coalition for Employment Through Exports; Mr. James Harmon, Chairman, World Resources Institute; Mr. James Morrison, President, Small Business Exporters Association of the United States.

#### COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on June 14, 2006, and ordered H.R. 5068 reported to the House, as amended, by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Oxley to report the bill, as amended, to the House with a favorable recommendation was agreed to by a voice vote.

The following amendment was considered and disposed of by a record vote. The names of Members voting for and against follow:

An amendment by Mr. Sanders, No. 1, on certification regarding U.S. wages was NOT AGREED TO by a record vote of 33 ayes and 34 nays. (Record vote no. FC-20)

RECORD VOTE NO. FC-20

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Oxley		X		Mr. Frank (MA)	X		
Mr. Leach		X		Mr. Kanjorski	X		
Mr. Baker		X		Ms. Waters	X		
Ms. Pryce (OH)				Mr. Sanders	X		
Mr. Bachus		X		Mrs. Maloney	X		
Mr. Castle		X		Mr. Gutierrez	X		
Mr. Royce		X		Ms. Velázquez	X		
Mr. Lucas		X		Mr. Watt	X		
Mr. Ney		X		Mr. Ackerman	X		
Mrs. Kelly		X		Ms. Hooley	X		
Mr. Paul	X			Ms. Carson	X		
Mr. Gillmor		X		Mr. Sherman	X		
Mr. Ryan (KS)		X		Mr. Meeks (NY)	X		
Mr. LaTourette		X		Ms. Lee	X		
Mr. Manzullo		X		Mr. Moore (KS)	X		
Mr. Jones (NC)	X			Mr. Capuano	X		
Mrs. Biggert		X		Mr. Ford	X		
Mr. Shays		X		Mr. Hinojosa	X		
Mr. Fossella		X		Mr. Crowley	X		
Mr. Gary G. Miller (CA)		X		Mr. Clay	X		
Mr. Tiberi		X		Mr. Israel	X		
Mr. Kennedy (MN)		X		Mrs. McCarthy	X		
Mr. Feeney		X		Mr. Baca	X		
Mr. Hensarling		X		Mr. Matheson	X		
Mr. Garrett (NJ)		X		Mr. Lynch			
Ms. Brown-Waite (FL)		X		Mr. Miller (NC)	X		
Mr. Barrett (SC)		X		Mr. Scott (GA)	X		
Ms. Harris		X		Mr. Davis (AL)	X		
Mr. Renzi		X		Mr. Al Green (TX)	X		
Mr. Gerlach		X		Mr. Cleaver	X		
Mr. Pearce		X		Ms. Bean			
Mr. Neugebauer		X		Ms. Wasserman Schultz	X		
Mr. Price (GA)		X		Ms. Moore (WI)	X		
Mr. Fitzpatrick (PA)		X					
Mr. Davis (KY)		X					
Mr. McHenry		X					
Mr. Campbell		X					

\*Mr. Sanders is an independent, but caucuses with the Democratic Caucus

The Committee considered the following other amendments:

A manager's amendment by Ms. Pryce, No. 2, was AGREED TO by a voice vote.

An amendment by Mr. Crowley, No. 3, prohibiting assistance to certain rail connections, was AGREED TO by a voice vote.

An amendment by Ms. Waters, No. 4, on performance standards, was AGREED TO by a voice vote.

An amendment by Mr. Davis (AL), No. 5, dealing with anti-circumvention, was AGREED TO, by a voice vote.

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held hearings and made findings that are reflected in this report.

## PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 5068, the "Export-Import Bank Reauthorization Act of 2006," is a five-year reauthorization of the Bank and proposes changes to Bank operations in a number of areas to improve its accessibility to small businesses and its competitiveness with other nations' export credit agencies.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 28, 2006.*

Hon. MICHAEL G. OXLEY,  
*Chairman, Committee on Financial Services,*  
*U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5068, the Export-Import Bank Reauthorization Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sam Papenfuss.

Sincerely,

DONALD B. MARRON,  
*Acting Director.*

Enclosure.

*H.R. 5068—Export-Import Bank Reauthorization Act of 2006*

Summary: H.R. 5068 would extend the authority of the Export-Import Bank of the United States (Eximbank) to enter into new direct loan obligations and new guaranteed loan commitments through 2011. The bill also would expand the use of the Tied Aid Credit Program. Additionally, the bill would establish within the Eximbank a new division focusing on small business concerns, and two new offices to assist businesses owned by women or socially and economically disadvantaged individuals, and to assist businesses involved in renewable energy development.

CBO estimates that implementing H.R. 5068 would have a new cost of \$35 million in 2007 and about \$450 million over the 2007–2011 period, assuming appropriation of the necessary amounts. Additionally, CBO estimates that enacting the bill would increase direct spending by \$5 million in 2007, \$45 million over the 2007–2011 period, and \$95 million over the 2007–2016 period.

H.R. 5068 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5068 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs).

	By fiscal year, in millions of dollars—					
	2006	2007	2008	2009	2010	2011
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Eximbank:						
Estimated Budget Authority <sup>1</sup> .....	96	0	0	0	0	0
Estimated Outlays .....	236	177	76	39	15	8
Proposed Changes:						
Estimated Authorization Level .....	0	105	118	121	125	128
Estimated Outlays .....	0	35	84	98	110	116
Spending Under H.R. 5068 for Eximbank:						
Estimated Authorization Level <sup>1</sup> .....	96	105	118	121	125	128
Estimated Outlays .....	236	212	160	137	125	124
CHANGES IN DIRECT SPENDING						
Budget Authority .....	0	0	0	0	0	0
Estimated Outlays .....	0	5	10	10	10	10

<sup>1</sup>The 2006 level is the net amount appropriated for that year, including offsetting collections for negative subsidy amounts.

Basis of estimate: For the purposes of this estimate, CBO assumes that H.R. 5068 will be enacted before the end of the fiscal year and that outlays will follow historical patterns.

*Spending subject to appropriation*

H.R. 5068 would extend Eximbank's authority to provide financing through 2011, an additional five years. Although no specific authorization is provided in the bill, we expect that appropriations would continue for both administrative costs and the cost of new loans and guarantees, as defined in the Federal Credit Reform Act. Over the 2007–2011 period, CBO estimates that the bill would authorize annual appropriations for Eximbank equal to the amount appropriated in 2006, adjusted for inflation. In 2006, the Congress appropriated \$73 million for administrative expenses and \$73 million for the subsidy cost of new loans and guarantees. For the last

few years, the subsidy rate for many loan guarantees made by Eximbank has been negative, which generates offsetting collections of about \$40 million a year. These collections reduce the net cost of Eximbank's operation and are included in the estimated costs over the 2007–2011 period.

Accordingly, CBO estimates that extending the operation of Eximbank through 2011 would have a net cost of \$35 million in 2007 and about \$450 million over the 2007–2011 period, assuming appropriation of the estimated amounts.

*Direct spending*

H.R. 5068 would increase spending of previously appropriated funds by setting more permissive standards for using the Tied Aid Credit Fund and limiting the Secretary of Treasury's ability to veto decisions about using the fund. The Tied Aid Credit Fund is used to provide assistance to U.S. exporters when their market share in developing markets is threatened by other countries' use of aid or concessional financing to promote exports to those developing markets. The use of the fund has been limited in recent years to defending the existing export-credit arrangement of the Organization for Economic Cooperation and Development. According to Eximbank, the fund has unobligated balances in excess of \$200 million and no funds has been expended for the last four years. Monies in the fund are available until expended. With limited involvement by the Secretary of Treasury and more expansive rules for using the Tied Aid Credit Fund, CBO expects outlays from the fund would increase under H.R. 5068. Based on information from Eximbank, CBO estimates that enacting H.R. 5068 would increase outlays from the Tied Aid Credit Fund by \$5 million in 2007, and by \$10 million a year in subsequent years—resulting in outlays of \$45 million over the 2007–2011 period and \$95 million over the 2007–2016 period.

Intergovernmental and private-sector impact: H.R. 5068 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal costs: Sam Papenfuss; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional

Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

This section provides the short title of the bill, the “Export-Import Bank Reauthorization Act of 2006.”

##### *Section 2. Table of contents*

This section provides the table of contents.

##### *Section 3. Reauthorization*

This section reauthorizes the Bank through September 30, 2011.

##### *Section 4. Increasing exports by small businesses*

This section creates a small business division within Ex-Im, led by a senior vice president who reports directly to the Bank chairman; requires that staff are dedicated exclusively to small business transactions; creates a small business committee within Ex-Im to coordinate division functions with other small business-related activities at the Bank; requires reports related to fees charged by the Bank to small business clients and related to Ex-Im’s efforts to meet its quota for small business transactions; and creates a “delegated lender” program for medium term financing for small businesses.

##### *Section 5. Office of financing for socially and economically disadvantaged small business concerns and small business concerns owned by women*

This section creates an office within the small business division charged with expanding Ex-Im’s outreach to women and minority-owned businesses and establishes a goal that 15 percent of small business lending be directed to such businesses. Section 5 also includes a related reporting requirement.

##### *Section 6. Sub-Saharan Africa*

This section reauthorizes the Sub-Saharan Africa advisory committee through September 30, 2011; requires the Bank to expand working relationships with financial and other institutions—including other United States agencies—in Sub-Saharan Africa in order to increase its export financing in the region; and requires greater flexibility by the Bank in its underwriting criteria and financing terms in Sub-Saharan Africa, to include more frequent use of local currency finance.

*Section 7. Extension of authority*

This section extends Public Law 103–428 through September 30, 2011. This authority, created in 1994, authorizes Ex-Im financing of export sales of nonlethal defense articles or services whose primary end use will be for civilian purposes, provided certain reporting and funding conditions are met.

*Section 8. Transparency initiatives*

This section requires Board action on applications that have been subject to an economic impact analysis; requires biweekly Board meetings; creates notification requirements to keep Ex-Im loan applicants informed of their status; calls for a report on technology made available by Ex-Im to assist small business applicants; and requires public disclosure of environmental impact assessments.

*Section 9. Effect of the bank on the budget of the United States*

This section requires a report to Congress on the Bank’s impact on the federal budget.

*Section 10. Competitiveness initiatives*

This section initiates new requirements intended to make the Bank more competitive in relation to other nations’ export credit agencies (ECA’s). To that end, Section 10 expands the scope of Ex-Im’s annual competitiveness report to include China and other emerging economies; adds reporting requirements on co-financing, after-market services, and renewable energy; requires a Board vote on the competitiveness report and allows for the publication of dissenting views; gives the Bank authority over the procedures used to determine uses of the Tied Aid Credit Fund; requires congressional notification when the President has decided to block a proposed use of the Tied Aid Credit Fund; adds China and other non-OECD countries to the list of nations Ex-Im is required to be competitive with; authorizes the creation of a mixed credit financing facility to increase the Bank’s competitiveness in developing markets; and establishes U.S. policy for purposes of negotiating international standards on export finance.

*Section 11. Consideration of environmental matters by the advisory committee*

This section adds two representatives of the environmental non-governmental organization community to Ex-Im’s advisory committee.

*Section 12. Study of how export-import bank could assist United States exporters to meet import needs of new or impoverished democracies; reports*

This section calls for a study of the needs of new or impoverished democracies for imports from the United States and the role Ex-Im can play in helping U.S. exporters meet those needs.

*Section 13. Review of environmental screening requirement*

This section calls for a report on the implications of limiting the requirement to conduct environmental screenings of projects proposed to be financed by the Bank to only those involving at least \$10,000,000.

*Section 14. Office of renewable energy promotion*

This section establishes an Office of Renewable Energy responsible for identifying new opportunities for renewable energy financing and calls for an annual report that details the activities of the office and compares the credit granted for renewable energy projects from year to year.

*Section 15. Transparency*

This section requires the Bank to consider in its economic impact analyses the effects of loans and guarantees on industries and employment in the U.S. This section also establishes notice and comment requirements and a deadline for the publication of the conclusions of economic impact analyses.

*Section 16. Anti-circumvention*

This section establishes protections against circumvention of trade law applicable to grantees of Bank loans and guarantees.

*Section 17. Performance standards applicable to bank assistance for small businesses, especially those owned by social and economically disadvantaged individuals and those owned by women*

This section requires the development of performance standards to determine the extent to which the Bank has successfully provided assistance to small businesses owned by women as well as socially and economically disadvantaged individuals. Section 17 also mandates an annual report to Congress on the Bank's progress.

*Section 18. Prohibition on assistance to develop or promote any rail connections or railway-related connections that transverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey, and that specifically exclude cities in Armenia*

This section prohibits the Bank from providing any guarantees, insurance or extensions of credit to any railway project that specifically excludes Armenia.

*Section 19. Technical corrections*

This section makes technical corrections to the Export-Impact Bank Act of 1945 pertaining to that Section which concerns Marxist-Lenin Countries.

*Section 20. Effective date*

This section designates October 1, 2006, as the effective date for the amendments made by this Act.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**EXPORT-IMPORT BANK ACT OF 1945**

SEC. 2. (a) \* \* \*

(b)(1)(A) It is the policy of the United States to foster expansion of exports of manufactured goods, agricultural products, and other goods and services, thereby contributing to the promotion and maintenance of high levels of employment and real income, a commitment to reinvestment and job creation, and the increased development of the productive resources of the United States. To meet this objective in all its programs, the Export-Import Bank is directed, in the exercise of its functions, to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are fully competitive with the Government-supported rates and terms and other conditions available for the financing of exports of goods and services from the principal countries whose exporters compete with United States exporters, *including countries the governments of which are not members of the Arrangement (as defined in section 10(h)(3))*. The Bank shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in Government-supported export financing and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing. [The Bank shall, not later than June 30 of each year, report to the appropriate committees of Congress its actions in complying with these directives. In this report the Bank shall include a survey of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with United States exporters (including through use of market windows) and indicate in specific terms the ways in which the Bank's rates, terms, and other conditions compare with those offered from such other governments directly or indirectly. With respect to the preceding sentence, the Bank shall use all available information to estimate the annual amount of export financing available from each government and government-related agency. Further the Bank shall at the same time survey a representative number of United States exporters and United States commercial lending institutions which provide export credit to determine their experience in meeting financial competition from other countries whose exporters compete with United States exporters. The results of this survey shall be included as part of the annual report required by this subparagraph. The Bank shall include in the annual report a description of its role in the implementation of the strategic plan prepared by the Trade Promotion Coordinating Committee in accordance with section 2312 of the Export Enhancement Act of 1988. The annual report required under this subparagraph shall include the report required under section 10(g). The Bank shall include in the annual report a description of all Bank transactions which shall be classified according to their principal purpose, such as to correct a market failure or to provide matching support. The Bank shall include in the annual report a description of the efforts undertaken under subparagraph (K).]

\* \* \* \* \*

(E)(i)(I) \* \* \*

(II) In exercising its authority, the Bank shall develop a program which [gives fair consideration to making loans and providing]

*makes loans and provides* guarantees for the export of goods and services by small **businesses** *business concerns*.

\* \* \* \* \*

**[(iii)]** In furtherance of this policy, the Board of Directors shall designate an officer of the Bank who—

**[(I)]** shall be responsible to the President of the Bank for all matters concerning or affecting small business concerns; and

**[(II)]** among other duties, shall be responsible for advising small business concerns of the opportunities for small business concerns in the functions of the Bank, with particular emphasis on conducting outreach and increasing loans to socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act), small business concerns (as defined in section 3(a) of the Small Business Act) owned by women, and small business concerns (as defined in section 3(a) of the Small Business Act) employing fewer than 100 employees, and for maintaining liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns.)

**[(iv)] (iii)** The Director appointed to represent the interests of small business under section 3(c) of this Act shall ensure that the Bank carries out its responsibilities under **clauses (ii) and (iii) of this subparagraph** *clause (ii)* and that the Bank's financial and other resources are, to the maximum extent possible, appropriately used for small business needs.

**[(v)] (iv)** To assure that the purposes of clauses (i) and (ii) of this subparagraph are carried out, the Bank shall make available, from the aggregate loan, guarantee, and insurance authority available to it, an amount to finance exports directly by small business concerns **[(as defined under section 3 of the Small Business Act)]** which shall be not less than 20 percent of such authority for each fiscal year. *From the amount made available under the preceding sentence, it shall be a goal of the Bank to make available not less than 15 percent of the amount to finance exports directly by small business concerns referred to in section 3(f)(4)(A).*

**[(vi)] (v)** The Bank shall utilize the amount set-aside pursuant to **clause (v) of this subparagraph** *clause (iv)* to offer financing for **small business exports** *exports by small business concerns* on terms which are fully competitive with regard to interest rates and with regard to the portion of financing which may be provided, guaranteed, or insured. Financing under this clause **[(vi)]** shall be available without regard to whether financing for the particular transaction was disapproved by any other Federal agency.

**[(vii)] (vi)(I)** The Bank shall utilize a part of the amount set aside pursuant to clause **[(v)] (iv)** to provide lines of credit or guarantees to consortia of small or medium size banks, export trading companies, State export finance agencies, export financing cooperatives, small business investment companies (as defined in section 103 of the Small Business Investment Act of 1958), or other financing institutions or entities in order to finance **small business exports** *exports by small business concerns*. *The Bank shall work in coordination with the entities described in the preceding sentence to streamline the processing of applications for Bank financing from small business concerns and to provide training and advice as re-*

quired on the needs and benefits of export financing for small business concerns.

(II) Financing under this clause [(vii)] shall be made available only where the consortia or the participating institutions agree to undertake processing, servicing, and credit evaluation functions in connection with such financing.

(III) [To the maximum extent practicable, the] *The* Bank shall delegate to the consortia the authority to approve financing under this clause [(vii)].

(IV) In the administration of the program under this clause [(vii)], the Bank shall provide appropriate technical assistance to participating consortia and may require such consortia periodically to furnish information to the Bank regarding the number and amount of loans made and the creditworthiness of the borrowers.

[(viii)] (vii) In order to assure that the policy stated in clause (i) is carried out, the Bank shall promote [small business exports] *exports by small business concerns* and its small business export financing programs in cooperation with the Secretary of Commerce, the Office of International Trade of the Small Business Administration, and the private sector, particularly small business organizations, State agencies, chambers of commerce, banking organizations, export management companies, export trading companies and private industry.

[(ix)] (viii) The Bank shall provide, through creditworthy trade associations, export trading companies, State export finance companies, export finance cooperatives, and other multiple-exporter organizations, medium-term risk protection coverage for the members and clients of such organizations. Such coverage shall be made available to each such organization under a single risk protection policy covering its members or clients. Nothing in this provision shall be interpreted as limiting the Bank's authority to deny support for specific transactions or to disapprove a request by such an organization to participate in such coverage.

[(x)] (ix) The Bank shall implement technology improvements that are designed to improve small business outreach, including allowing customers to use the Internet to apply for the Bank's small business programs.

(x) *In this subparagraph, the term "small business concern" shall have the meaning established under section 3(a) of the Small Business Act.*

\* \* \* \* \*

(2) PROHIBITION ON AID TO MARXIST-LENINIST COUNTRIES.—

(A) \* \* \*

(B) MARXIST-LENINIST COUNTRY DEFINED.—

(i) \* \* \*

(ii) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in accordance with subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

[(I) Cambodian People's Republic.]

[(II) (I) Democratic People's Republic of Korea.

[(III) Democratic Republic of Afghanistan.]

[(IV) (II) Lao People's Democratic Republic.

[(V) (III) People's Republic of China.

- ~~[(VI)]~~ (IV) Republic of Cuba.
- ~~[(VII)]~~ Socialist Federal Republic of Yugoslavia.
- ~~[(VIII)]~~ Socialist Republic of Vietnam.
- ~~[(IX)]~~ Tibet.]

\* \* \* \* \*

(9)(A) \* \* \*

(B)(i) \* \* \*

\* \* \* \* \*

(iii) The advisory committee shall terminate on September 30, ~~[2006]~~ 2011.

\* \* \* \* \*

(C) *The Bank shall include in the annual report to the Congress submitted under section 8(a) a separate section that contains a report on the efforts of the Bank to improve working relationships with the African Development Bank, the Africa Export-Import Bank, and other institutions in the region that are relevant to the purposes of subparagraph (A) of this paragraph.*

(D) *The Bank shall closely coordinate with the United States Foreign Commercial Service and with the overall strategy of the United States Government, for economic engagement with Africa pursuant to the African Growth and Opportunity Act.*

(E) *The Bank shall develop initiatives to train Foreign Service and Commercial Service officers serving at United State embassies in Africa, in the use of Bank programs, so the officers can encourage African buyers to take part in transactions supported by the Bank.*

(F) *Consistent with the requirement that the Bank obtain a reasonable assurance of repayment in connection with each transaction the Bank supports, the Bank shall, in consultation with the entities described in subparagraph (C), seek greater flexibility in the due-diligence procedures of the Bank for the purpose of qualifying a greater number of appropriate African entities for participation in programs of the Bank.*

(G) *The Bank shall develop procedures under which the Bank is capable of financing certain African programs in local currencies.*

\* \* \* \* \*

(13) *The Bank shall not guarantee, insure, extend credit, or participate in an extension of credit in connection with the development or promotion of any rail connections or railway-related connections that do not traverse or connect with Armenia, and do traverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey.*

\* \* \* \* \*

(e) LIMITATION ON ASSISTANCE WHICH ADVERSELY AFFECT THE UNITED STATES.—

(1) IN GENERAL.—The Bank may not extend any direct credit of financial guarantee for establishing or expanding production of any commodity for export by any country other than the United States, if—

- (A) the Bank determines that—
  - (i) the commodity is likely to be in surplus on world markets at the time the resulting commodity will first be sold; or

(ii) the resulting production capacity is expected to compete with United States production of the same, similar, or competing commodity; and

(B) the Bank determines that the extension of such credit or guarantee will cause substantial injury to United States producers of the same, similar, or competing commodity.

*In making the determination under subparagraph (B), the Bank shall determine whether the facility that would benefit from the extension of a credit or guarantee is reasonably likely to produce products in addition to or other than the product specified in the application and whether the production of the products may cause substantial injury to United States producers of the same, or a similar or competing, commodity.*

(2) OUTSTANDING ORDERS AND PRELIMINARY INJURY DETERMINATIONS.—

(A) \* \* \*

\* \* \* \* \*

(C) COMMENT PERIOD.—The Bank shall establish procedures under which the Bank shall notify interested parties and provide a comment period of *not less than 14 days (which, on request of any affected party, shall be extended to a period of not more than 30 days)* with regard to loans or guarantees reviewed pursuant to subparagraph (B) or (D).

\* \* \* \* \*

(E) ANTI-CIRCUMVENTION.—*The Bank shall not provide a loan or guarantee if the Bank determines that providing the loan or guarantee will facilitate circumvention of a trade law order or determination referred to in subparagraph (A).*

\* \* \* \* \*

(5) BOARD VOTE REQUIRED.—*Within 60 days after completing a review, pursuant to this subsection, of a proposed loan or guarantee (including any applicable comment period), the Board of Directors shall hold a vote to determine whether or not to proceed with the proposed loan or guarantee, unless the applicant has withdrawn the application for the loan or guarantee.*

(6) PROCEDURES TO REDUCE ADVERSE EFFECTS OF LOANS AND GUARANTEES ON INDUSTRIES AND EMPLOYMENT IN UNITED STATES.—

(A) CONSIDERATION OF ECONOMIC EFFECTS OF PROPOSED TRANSACTIONS.—*If, in making a determination under this paragraph with respect to a loan or guarantee, the Bank conducts a detailed economic impact analysis or similar study, the analysis or study, as the case may be, shall include consideration of—*

*(i) the factors set forth in subparagraphs (A) and (B) of paragraph (1); and*

*(ii) the views of the public and interested parties.*

(B) NOTICE AND COMMENT REQUIREMENTS.—

(i) *IN GENERAL.*—If, in making a determination under this subsection with respect to a loan or guarantee, the Bank intends to conduct a detailed economic impact analysis or similar study, the Bank shall cause to be published in the Federal Register a notice of the intent, and provide a period of not less than 14 days (which, on request by any affected party, shall be extended to a period of not more than 30 days) for the submission to the Bank of comments on the economic effects of the provision of the loan or guarantee. In addition, the Bank shall seek comments on the effects from the Department of Commerce, the International Trade Commission, the Office of Management and Budget, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

(ii) *CONTENT OF NOTICE.*—The notice shall include appropriate, nonproprietary information about—

- (I) the name of the applicant;
- (II) the country to which the goods involved in the transaction will be shipped;
- (III) the type of goods being exported;
- (IV) the amount of the loan or guarantee involved;
- (V) the goods that would be produced as a result of the provision of the loan or guarantee;
- (VI) the amount of increased production that will result from the transaction;
- (VII) the potential sales market for the resulting goods;
- (VIII) the value of the transaction; and
- (IX) any other relevant information.

(iii) *PROCEDURE REGARDING MATERIALLY CHANGED APPLICATIONS.*—

(I) *IN GENERAL.*—If a material change is made to an application for a loan or guarantee from the Bank after a notice with respect to the intent described in clause (i) is published under this subparagraph, the Bank shall cause to be published in the Federal Register a revised notice of the intent, and shall provide for a comment period, as provided in clauses (i) and (ii).

(II) *MATERIAL CHANGE DEFINED.*—In subclause (I), the term “material change”, with respect to an application, includes—

- (aa) a change of at least 25 percent in the amount of a loan or guarantee requested in the application; and
- (bb) a change in the principal product to be produced as a result of any transaction that would be facilitated by the provision of the loan or guarantee.

(C) *REQUIREMENT TO CONSIDER AND ADDRESS VIEWS OF ADVERSELY AFFECTED PERSONS.*—Before taking final action on an application for a loan or guarantee from the Bank

to which this subsection applies, the Bank shall consider and address in writing the views of any person who may be substantially adversely affected by the provision of the loan or guarantee.

(D) PUBLICATION OF CONCLUSIONS.—Within 30 days after a party affected by a final decision of the Board of Directors with respect to a loan or guarantee makes a written request therefor, the Bank shall provide to the affected party a non-confidential summary of the facts found and conclusions reached in any detailed economic impact analysis or similar study conducted pursuant to subparagraph (B) with respect to the loan or guarantee, that were submitted to the Board of Directors.

(E) RULE OF INTERPRETATION.—This paragraph shall not be construed to make subchapter II of chapter 5 of title 5, United States Code, applicable to the Bank.

(F) REGULATIONS.—The Bank shall implement such regulations and procedures as may be appropriate to carry out this paragraph.

(7) FINANCIAL THRESHOLD DETERMINATIONS.—For purposes of determining whether a proposed transaction exceeds a financial threshold under this subsection or under the procedures or rules of the Bank, the Bank shall aggregate the dollar amount of the proposed transaction and the dollar amounts of all loans and guarantees, approved by the Bank in the preceding 24-month period, that involved the same foreign entity and substantially the same product to be produced.

\* \* \* \* \*

(g) PROCESS FOR NOTIFYING APPLICANTS OF APPLICATION STATUS.—The Bank shall establish and adhere to a clearly defined process for—

- (1) acknowledging receipt of applications;
- (2) informing applicants that their applications are complete or, if incomplete or containing a minor defect, of the additional material or changes that, if supplied or made, would make the application eligible for consideration; and
- (3) keeping applicants informed of the status of their applications, including a clear and timely notification of approval or disapproval, and, in the case of disapproval, the reason for disapproval, as appropriate.

(h) RESPONSE TO APPLICATION FOR FINANCING; IMPLEMENTATION OF ONLINE LOAN REQUEST AND TRACKING PROCESS.—Within 5 days after receipt of an application for financing from the Bank, the Bank shall notify the applicant that the application has been received, and shall include in the notice a request for such additional information as may be necessary to make the application complete, the name of a Bank employee who may be contacted with questions relating to the application, and a unique identification number which may be used to review the status of the application at a website established as provided in the next sentence. Not later than September 1, 2006, the Bank shall use the authorities provided by subparagraphs (E)(ix) and (J) of subsection (b)(1) of this section to establish, and thereafter to maintain, a website through which any Bank product may be applied for, information may be obtained about the status of any such application, about the small business

*division of the Bank, or about incentives, preferences, targets, and goals relating to small business concerns referred to in section 3(f)(4)(A) or small business concerns exporting to Africa.*

SEC. 3. (a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

\* \* \* \* \*

(9) *The Board of Directors shall meet not less frequently than bi-weekly.*

(10) *At the request of any 2 members of the Board of Directors, the Chairman shall place an item on the agenda for consideration by the Board. Within 30 days after the date such a request is made, the Chairman shall hold a meeting of the Board at which the item will be considered.*

(d)(1)(A) There is established an Advisory Committee to consist of **[15]** 17 members who shall be appointed by the Board of Directors on the recommendation of the President of the Bank.

(B) Such members shall be broadly representative of *environment, production, commerce, finance, agriculture, labor, services, and State government.*

(2)(A) \* \* \*

\* \* \* \* \*

(C) *Not less than 2 members appointed to the Advisory Committee shall be representative of the environmental nongovernmental organization community, except that no 2 of the members shall be from the same environmental organization. Environmental organizations represented shall have demonstrated experience with environmental issues associated with the Bank, the Export Credit Group of the Organization for Economic Cooperation and Development, or both.*

\* \* \* \* \*

(f) **SMALL BUSINESS DIVISION.**—

(1) **ESTABLISHMENT.**—*The President of the Bank shall establish and maintain a division of the Bank whose sole functions shall be to—*

(A) *carry out subparagraphs (E) and (I) of section 2(b)(1), as such subparagraphs relate to outreach, feedback, product improvement, and transaction advocacy for small business concerns;*

(B) *advise and seek feedback from small business concerns of the opportunities and benefits for small business concerns in the financing products offered by the Bank, with particular emphasis on conducting outreach, better tailoring products to small business needs and increasing loans to small business concerns employing fewer than 100 employees; and*

(C) *maintain liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns.*

(2) **MANAGEMENT.**—*The division shall be managed by a Bank officer designated by the Board of Directors—*

(A) *who shall have substantial recent experience in financing exports by small business concerns;*

(B) whose sole executive duty shall be to ensure that the division carries out the functions of the division;

(C) who shall advise the Board, particularly the Director appointed under section 3(c)(8)(B) to represent the interests of small business, on matters of interest to, and concern for, small business;

(D) who shall rank not lower than senior vice president of the Bank; and

(E) who shall report directly to the President of the Bank.

(3) **RESOURCES.**—

(A) **IN GENERAL.**—The President of the Bank shall ensure that the division has sufficient qualified staff and budgetary resources to carry out subparagraphs (E) and (I) of section 2(b)(1), as determined annually by the President of the Bank, after consultation with—

(i) the officer referred to in paragraph (2) of this subsection;

(ii) the Director appointed under subsection (c)(8)(B) of this section;

(iii) the Committee on Financial Services of the House of Representatives; and

(iv) the Committee on Banking, Housing, and Urban Affairs of the Senate.

(B) **USES.**—

(i) **IN GENERAL.**—The President of the Bank shall ensure that the staff and budgetary resources of the division are devoted solely to carrying out the functions of the division.

(ii) **CERTAIN STAFF DUTIES.**—The division shall include staff dedicated exclusively to providing outreach, training, and advice to, seeking feedback from, and advocating on behalf of small business concerns regarding Bank financing opportunities, products, and programs.

(C) **RULE OF INTERPRETATION.**—Nothing in this Act shall be construed to prevent the delegation to the division of any authority necessary to carry out subparagraphs (E) and (I) of section 2(b)(1).

(4) **OFFICE OF FINANCING FOR SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS AND SMALL BUSINESS CONCERNS OWNED BY WOMEN.**—

(A) **ESTABLISHMENT.**—The President of the Bank shall establish in the division an office whose sole functions shall be to continue and enhance the outreach activities of the Bank with respect to, and increase the total amount of loans, guarantees, and insurance provided by the Bank to support exports by, socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act) and small business concerns owned by women.

(B) **MANAGEMENT.**—The office shall be managed by a Bank officer of appropriate rank who shall report to the Bank officer designated under section 3(f)(2).

(C) **STAFFING.**—To the maximum extent practicable, the President of the Bank shall ensure that qualified minority

and women applicants are considered when filling any position in the office.

(5) **SMALL BUSINESS CONCERN DEFINED.**—In this subsection and subsections (g) and (h), the term “small business concern” shall have the meaning established under section 3(a) of the Small Business Act.

(g) **HANDLING OF APPLICATIONS OF, AND PROCESSING OF TRANSACTIONS INVOLVING SMALL BUSINESS CONCERNS.**—Consistent with the requirement that the Bank obtain a reasonable assurance of repayment for each transaction the Bank supports, the Bank shall establish and maintain transaction standards tailored to the special circumstances of small business concerns and shall use the standards in evaluating applications by the concerns for Bank financing. The Bank shall ensure that each appropriate division of the Bank has staff dedicated to the processing of transactions involving small business concerns.

(h) **SMALL BUSINESS COMMITTEE.**—

(1) **ESTABLISHMENT.**—The Bank shall establish and maintain a committee to be known as the “Small Business Committee”.

(2) **PRINCIPAL PURPOSE.**—The principal purpose of the Small Business Committee shall be to focus on small business concerns and coordinate the efforts of the Bank with respect to small business concerns, including the timely processing of small business product applications and the evolution of new or improved Bank products to better serve small business needs.

(3) **COMPOSITION.**—

(A) **CHAIRMAN.**—The chairman of the Small Business Committee shall be the Senior Vice President of the Bank who is responsible for management of the Small Business Division of the Bank.

(B) **OTHER MEMBERS.**—The President of the Bank shall ensure that the committee is comprised of officers and employees throughout the Bank that have responsibility for outreach and processing transactions involving small business concerns.

(4) **REPORTS.**—The Small Business Committee shall report to the President of the Bank.

(i) **OFFICE OF RENEWABLE ENERGY PROMOTION.**—

(1) **ESTABLISHMENT.**—Within 1 year after the date of the enactment of this subsection, the President of the Bank shall establish and maintain in the Bank an office which shall be known as the “Office of Renewable Energy Promotion” (in this subsection referred to as the “Office”).

(2) **FUNCTIONS.**—The Office shall be responsible for proactively identifying new opportunities for renewable energy financing and carrying out section 2(b)(1)(K). In carrying out its function of promoting renewable energy technologies, the Office should, among other things, consider the recommendations made by the Renewable Energy Expert Advisory Committee.

(3) **STAFF.**—The President of the Bank shall ensure that the Office has staff with appropriate expertise in renewable energy technologies.

(4) **ANNUAL REPORTS.**—The Bank shall submit annually to the Committee on Resources and the Committee on Financial Services of the House of Representatives, and to the Committee

on Banking, Housing, and Urban Affairs of the Senate, a report that contains, for the fiscal year covered by the report—

(A) a detailed description of the activities of the Office; and

(B) an analysis comparing the level of credit extended by the Bank for renewable energy projects with the level of credit so extended for the preceding fiscal year.

(5) **RENEWABLE ENERGY TECHNOLOGIES DEFINED.**—In this subsection, the term “renewable energy technologies” means technologies for producing power through the use of solar energy, wind energy, and energy from biomass, fuel cells, or geothermal sources, and technologies for producing less than 10 megawatts in hydropower.

\* \* \* \* \*

SEC. 7. The Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its object and purposes until the close of business on September 30, [2006] 2011, but the provisions of this section shall not be construed as preventing the Bank from acquiring obligations prior to such date which mature subsequent to such date or from assuming prior to such date liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date, or from issuing either prior or subsequent to such date, for purchase by the Secretary of the Treasury or any other purchasers, its notes, debentures, bonds, or other obligations which mature subsequent to such date or from continuing as a corporate agency of the United States and exercising any of its functions subsequent to such date for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the Bank.

SEC. 8. (a) \* \* \*

(b)(1) \* \* \*

(2) Such report shall specify—

(A) \* \* \*

(B) the number and dollar volume of loans made through the consortia program under section [2(b)(1)(E)(vii)] 2(b)(1)(E)(vi);

\* \* \* \* \*

[(c) **TECHNOLOGY TO ASSIST SMALL BUSINESSES.**—The Bank shall include in its annual report to the Congress under subsection (a) of this section for each of fiscal years 2002 through 2006 a report on the efforts made by the Bank to carry out subparagraphs (E)(x) and (J) of section 2(b)(1) of this Act, and on how the efforts are assisting small business concerns (as defined in section 3(a) of the Small Business Act).]

(c) **TECHNOLOGY TO ASSIST SMALL BUSINESSES.**—The Bank shall include in its annual report to the Congress under subsection (a) of this section for each of fiscal years 2007 through 2011 a separate section that contains—

(1) a report on the efforts made by the Bank to carry out subparagraphs (E)(ix) and (J) of section 2(b)(1) of this Act, the total amount expended in the fiscal year to do so, and how the efforts are assisting small business concerns (as defined under section 3(a) of the Small Business Act); and

(2) if the Bank has been unable to comply fully with such subparagraphs—

- (A) an analysis of the reasons therefor;
- (B) a description of what the Bank is doing to achieve, and the date by which the Bank expects to have achieved, such full compliance; and
- (C) the name of each Bank officer who is responsible for ensuring that the Bank achieves, and the name of the person to whom the Bank officer reports on progress in achieving, such full compliance.

\* \* \* \* \*

(f) **REPORT ON FEES CHARGED TO, AND TRANSACTIONS COSTS INCURRED BY, SMALL AND MEDIUM BUSINESS FOR BANK SERVICES.**—The Bank shall submit to the Congress annually, and include in a separate section of the annual report to the Congress under subsection (a) of this section, a report on—

(1) with respect to each type of transaction, the interest and fees charged by the Bank to exporters (including a description of fees and interest, if any, charged to small business concerns), buyers, and other applicants in connection with each financing program of the Bank, and the highest, lowest, and average fees charged by the Bank for short term insurance transactions;

(2) the effects of the fees on the ability of the Bank to achieve the objectives of the Bank relating to small business; and

(3) the fee structure of the Bank as compared with that of other foreign export credit agencies.

(g) **REPORT ON FINANCING DIRECTED TOWARD SMALL BUSINESS.**—The Bank shall submit annually to the Committees on Financial Services and on Small Business of the House of Representatives—

(1) a report on the extent to which the Bank has been able to use the authorities referred to in section 2(b)(1)(E)(iv), and to finance exports by small business concerns referred to in section 3(f)(4)(A), and, to the extent the Bank has been unable to fully do so, a report on the obstacles to doing so and on what the Bank is doing to overcome the obstacles;

(2) a report on the extent to which financing has been made available to small business concerns to enable them to participate in exports by major contractor, including through access to the supply chains of the contractors through direct or indirect funding; and

(3) a strategic plan of action describing how, in the upcoming year, the Bank will take specific measures to achieve the small business objectives of the Bank, including expanded outreach, product improvements, and related actions.

(h) **REPORT ON EFFORTS TO SUPPORT EXPORTS BY SMALL- AND MEDIUM-SIZED BUSINESSES OWNED BY WOMEN OR MINORITIES.**—Not later than March 1 of each year, the Director appointed under section 3(c)(8)(B) of this Act shall prepare and submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Bank shall include in a separate section of the annual report submitted pursuant to subsection (a) of this section, a written report that describes the progress made by the Bank in supporting exports by socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act) and small business concerns owned by women.

(i) *REPORT ON INVOLVEMENT OF THE BANK AND OF OTHER EXPORT CREDIT AGENCIES IN REGIONAL MULTI-BUYER INSURANCE PROGRAMS AND WORKING-CAPITAL GUARANTEE PROGRAMS.*—The Bank shall include in its annual report to the Congress under subsection (a) of this section a separate section that contains a report on—

(1) regional multi-buyer insurance programs and working capital guarantee programs operated by, through, or in conjunction with the Bank, which shall include an analysis of the effectiveness of the programs and of how effective the programs would be in increasing export-related jobs in the United States if the programs were larger;

(2) the size of similar programs of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with United States exporters (including through use of market windows (as defined in section 10(h)(7)); and

(3) as a detailed explanation, with respect to the programs, of the working relationship between the Bank and the Small Business Administration, the Department of Commerce, and other United States Government agencies concerned with increasing the number of export-related jobs in the United States.

(j) *REPORT ON ACHIEVEMENT OF PERFORMANCE STANDARDS APPLICABLE TO SMALL BUSINESS CONCERNS, SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS, AND SMALL BUSINESS CONCERNS OWNED BY WOMEN.*—The Bank shall submit annually to the Congress, and include in a separate section of the annual report to the Congress under subsection (a) of this section, a report on the extent to which the Bank has carried out successfully subparagraphs (E) and (I) of section 2(b)(1), and the functions described in subsections (f)(1)(A), (f)(4)(A), and (h)(2) of section 3, of this Act, using the performance standards and measuring rules developed pursuant to section 12(a) of the Export-Import Bank Reauthorization Act of 2006.

**SEC. 8A. ANNUAL COMPETITIVENESS REPORT.**

(a) *IN GENERAL.*—Not later than June 30 of each year, the Bank shall submit to the appropriate committees of the Congress a report that includes the following:

(1) *ACTIONS OF BANK IN PROVIDING FINANCING ON A COMPETITIVE BASIS, AND TO MINIMIZE COMPETITION IN GOVERNMENT-SUPPORTED EXPORT FINANCING.*—A description of the actions of the Bank in complying with the 2nd and 3rd sentences of section 2(b)(1)(A). In this part of the report, the Bank shall include a survey of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with United States exporters (including through use of market windows (as defined in section 10(h)(7)) and indicate in specific terms the ways in which the Bank's rates, terms, and other conditions compare with those offered from such other governments directly or indirectly. With respect to the preceding sentence, the Bank shall use all available information to estimate the annual amount of export financing available from each such government and government-related agency. In this part of the report, the Bank shall include a survey of a representative number of United

*States exporters and United States commercial lending institutions which provide export credit to determine the experience of the exporters and institutions in meeting financial competition from other countries whose exporters compete with United States exporters.*

(2) *ROLE OF BANK IN IMPLEMENTING STRATEGIC PLAN PREPARED BY THE TRADE PROMOTION COORDINATING COMMITTEE.—A description of the role of the Bank in implementing the strategic plan prepared by the Trade Promotion Coordinating Committee in accordance with section 2312 of the Export Enhancement Act of 1988.*

(3) *TIED AID CREDIT PROGRAM AND FUND.—The report required by section 10(g).*

(4) *PURPOSE OF ALL BANK TRANSACTIONS.—A description of all Bank transactions which shall be classified according to their principal purpose, such as to correct a market failure or to provide matching support.*

(5) *EFFORTS OF BANK TO PROMOTE EXPORT OF GOODS AND SERVICES RELATED TO RENEWABLE ENERGY SOURCES.—A description of the efforts undertaken under section 2(b)(1)(K).*

(6) *SIZE OF BANK PROGRAM ACCOUNT.—A separate section which—*

*(A) compares the size of the Bank program account with the size of the program accounts of the other major export-financing facilities referred to in paragraph (1); and*

*(B) makes recommendations with respect to the relative size of the Bank program account, based on factors including whether the size differences are in the best interests of the United States taxpayer.*

(7) *CO-FINANCING PROGRAMS OF THE BANK AND OF OTHER EXPORT CREDIT AGENCIES.—A separate section which describes the co-financing programs of the Bank and of the other major export-financing facilities referred to in paragraph (1), which shall include a list of which countries with which the United States has in effect a memorandum of understanding relating to export credit agency co-financing and an explanation of why such a memorandum is not in effect with the countries with which such a memorandum is not in effect.*

(8) *AFTER-MARKET SERVICES SUPPORT BY THE BANK AND BY OTHER EXPORT CREDIT AGENCIES.—A separate section which describes the participation of the Bank in providing funding, guarantees, or insurance for after-market services, which shall include appropriate information on the involvement of the other major export-financing facilities referred to in paragraph (1) in providing such support for after-market services, and an explanation of any differences among the facilities in providing the support.*

(9) *EXPORT FINANCE CASES NOT IN COMPLIANCE WITH THE ARRANGEMENT.—Detailed information on cases of export finance that are not in compliance with the Arrangement (as defined in section 10(h)(3)) or that exploit loopholes in the Arrangement for the purpose of obtaining a commercial competitive advantage.*

(10) *FOREIGN EXPORT CREDIT AGENCY ACTIVITIES NOT CONSISTENT WITH THE WTO AGREEMENT ON SUBSIDIES AND COUN-*

*TERVAILING MEASURES.—A description of the extent to which the activities of foreign export credit agencies and other entities sponsored by a foreign government, particularly those that are not members of the Arrangement (as defined in section 10(h)(3)), are not in compliance with the Arrangement and may not be consistent with the terms of the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)), and a description of the actions taken by the United States Government to address the activities.*

*(b) BOARD VOTE ON REPORT REQUIRED.—The Board of Directors shall vote to approve and shall sign each report required by subsection (a).*

*(c) INCLUSION OF DISSENTING VIEWS, ETC.—Each report required by subsection (a) shall include such dissenting views and additional comments as any member of the Board of Directors may submit to the Board for inclusion in the report.*

\* \* \* \* \*

TIED AID CREDIT PROGRAM AND FUND

SEC. 10. (a) FINDINGS.—The Congress finds that—

(1) \* \* \*

\* \* \* \* \*

(5) the Bank has, at a minimum, the following **[two]** 3 tasks—

(A)(i) \* \* \*

\* \* \* \* \*

(iv) in order to bring untied aid within the discipline of the Arrangement, the Bank should consider initiating highly competitive financial support when the Bank learns that foreign untied aid offers will be made; **[and]**

\* \* \* \* \*

*(C) third, the Bank should support United States exporters when the exporters face foreign competition that is supported by foreign export credit agencies or other entities sponsored by a foreign government that are not party to the Arrangement; and*

(6) there should be established in the Bank a tied aid program to target the export markets of those countries *including those that are not a party to the Arrangement* which make extensive use of tied aid or partially untied aid credits for, or untied aid used to promote exports as if it were tied aid, commercial advantage for the purposes of—

(A) \* \* \*

(B) facilitating efforts to negotiate, establish, and enforce new or revised comprehensive international arrangements effectively restricting the use of tied aid and partially untied aid credits, or untied aid used to promote exports as if it were tied aid, for commercial purposes; *and*

*(C) promoting compliance with Arrangement rules among foreign export credit agencies that are not a party to the Arrangement,*

and such program should be used aggressively for such purposes.

(b) ESTABLISHMENT OF TIED AID CREDIT PROGRAM.—

(1) \* \* \*

(2) ADMINISTRATION OF PROGRAM.—The tied aid credit program shall be administrated by the Bank—

(A) **in consultation with the Secretary and** in accordance with the principles, process, and standards developed pursuant to paragraph (5) of this subsection and the purposes described in subsection (a)(5);

\* \* \* \* \*

(5) PRINCIPLES, PROCESS, AND STANDARDS GOVERNING USE OF THE FUND.—

(A) **IN GENERAL.**—The **Secretary and the Bank jointly** shall develop a process for, and the principles and standards to be used in, determining how the amounts in the Tied Aid Credit Fund could be used most effectively and efficiently to carry out the purposes of subsection (a)(6).

(B) CONTENT OF PRINCIPLES, PROCESS, AND STANDARDS.—

(i) **CONSIDERATION OF CERTAIN PRINCIPLES AND STANDARDS.**—In developing the principles and standards referred to in subparagraph (A), the **Secretary and the** Bank shall consider administering the Tied Aid Credit Fund in accordance with the following principles and standards:

(I) The Tied Aid Credit Fund should be used to leverage multilateral negotiations to restrict the scope for aid-financed trade distortions through new multilateral rules, and to police existing rules, *and to bring into the Arrangement those countries that are not a party to the Arrangement.*

\* \* \* \* \*

(III) Credible information about an offer of foreign tied aid will be required before the Tied Aid Credit Fund is used to offer specific terms to match such an offer. *In cases where information about a specific offer of foreign tied aid (or untied aid used to promote exports as if it were tied aid) is not available in a timely manner, or is unavailable because the foreign export credit agency involved is not subject to the reporting requirements under the Arrangement, then the Bank may decide to use the Tied Aid Credit Fund based on credible evidence of a history of such offers under similar circumstances or other forms of credible evidence.*

\* \* \* \* \*

(ii) **CONCLUSION.**—Once the principles, process and standards referred to in subparagraph (A) are followed, the final case-by-case decisions on the use of the Tied Aid Credit Fund shall be made by the Bank: *Provided however,* That the Bank shall not approve the extension of a proposed tied aid credit if the Presi-

dent of the United States determines, after consulting with the President of the Bank and the Secretary of the Treasury, that the extension of the tied aid credit would materially impede achieving the purposes described in subsection (a)(6). *The President of the United States shall notify the Congress of such a determination within 30 days, including an explanation for the determination.*

(C) INITIAL PRINCIPLES, PROCESS, AND STANDARDS.—As soon as is practicable but not later than 6 months after the date of the enactment of this paragraph, [the Secretary and] the Bank shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a copy of the principles, process, and standards developed pursuant to subparagraph (A).

\* \* \* \* \*

(E) UPDATE AND REVISION.—The [Secretary and the Bank jointly] *Bank* should update and revise, as needed, the principles, process, and standards developed pursuant to subparagraph (A), and, on doing so, shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a copy of the principles, process, and standards so updated and revised.

\* \* \* \* \*

(i) *AUTHORITY TO SEEK USE OF MIXED FORMS OF CONCESSIONAL FINANCING.*—*For purposes of improving the effects of Bank financing on development in tied aid eligible markets (as defined under the Arrangement) and of improving the competitiveness of the Bank in the markets, the Bank shall, in consultation with United States government aid agencies and, as appropriate, multilateral aid institutions, seek to establish, consistent with the Arrangement, a mixed credit program consisting of longer term financing and other forms of more flexible repayment terms, financing of transactions in local currencies, and other forms of concessional financing that meets the needs of the product sector and foreign market involved.*

#### SEC. 11. ENVIRONMENTAL POLICY AND PROCEDURES.

(a) ENVIRONMENTAL EFFECTS CONSIDERATION.—

(1) IN GENERAL.—Consistent with the objectives of section 2(b)(1)(A), the Bank shall establish procedures to take into account the potential beneficial and adverse environmental effects of goods and services for which support is requested under its direct lending and guarantee programs. *Such procedures shall provide for the public disclosure of environmental assessments and supplemental environmental reports required to be submitted to the Bank, including remediation or mitigation plans and procedures, and related monitoring reports. The preceding sentence shall not be interpreted to require the public disclosure of any information described in section 1905 of title 18, United States Code.* Such procedures shall apply to any transaction involving a project—

(A) \* \* \*

\* \* \* \* \*

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**ACT OF OCTOBER 31, 1994**

(Public Law 103-428)

AN ACT To authorize the Export-Import Bank of the United States to provide financing for the export of nonlethal defense articles and defense services the primary end use of which will be for civilian purposes.

**SECTION 1. AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.**

(a) \* \* \*

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(c) PERIOD OF EFFECTIVENESS.—The amendments made by this section shall remain in effect during the period beginning on the date of enactment of this Act and ending on September 30, **[2001]** 2011.

## DISSENTING VIEWS

Mr. Chairman, Congress should reject H.R. 5068, the Export-Import Reauthorization Act, for economic, constitutional, and moral reasons. The Export-Import Bank (Eximbank) takes money from American taxpayers to subsidize exports by American companies. Of course, it is not just any company that receives Eximbank support; the vast majority of Eximbank funds benefit Enron-like outfits that must rely on political connections and government subsidies to survive and/or multinational corporations who can afford to support their own exports without relying on the American taxpayer. In fact, according to journalist Robert Novak, Enron itself received over \$640 million in taxpayer-funded "assistance" from Eximbank. This taxpayer-provided largesse no doubt helped postpone Enron's inevitable day of reckoning.

It is not only bad economics to force working Americans, small businesses, and entrepreneurs to subsidize the exports of large corporations: it is also immoral. Redistribution from the poor and middle class to the wealthy is the most indefensible aspect of the welfare state, yet it is the most accepted form of welfare. Mr. Chairman it never ceases to amaze me how members who criticize welfare for the poor on moral and constitutional grounds see no problem with the even more objectionable programs that provide welfare for the rich.

The moral case against Eximbank is strengthened when one considers that one of the governments which benefits most from Eximbank funds is communist China. In fact, Eximbank actually underwrites joint ventures with firms owned by the Chinese government! Whatever one's position on trading with China, I would hope all of us would agree that it is wrong to force taxpayers to subsidize in any way this brutal regime. Unfortunately, China is not an isolated case: Colombia and Sudan benefit from taxpayer-subsidized trade, courtesy of the Eximbank!

At a time when the Federal budget is running huge deficits and Congress is once again preparing to raid the Social Security and Medicare trust funds, does it really make sense to use taxpayer funds to benefit future Enrons, Fortune 500 companies, and communist China?

One project funded by Eximbank in China is an \$18 million loan guarantee to expand steel manufacturing. This is not an isolated example of how Eximbank helps foreign steel producers. According to the most recent figures available, the five countries with the greatest Eximbank exposure are all among the top ten exporters of steel and/or steel products to the United States. In fact, Eximbank provided almost \$20 billion of U.S. taxpayer support to these countries. Mr. Chairman, I find it hard to see how taxing American steel producers to benefit their foreign competitors strengthens the American economy.

Proponents of continued American support for the Eximbank claim that the bank “creates jobs” and promotes economic growth. However, this claim rests on a version of what the great economist Henry Hazlitt called the “broken window” fallacy. When a hoodlum throws a rock through a store window, it can be said he has contributed to the economy, as the store owner will have to spend money having the window fixed. The benefits to those who repaired the window are visible for all to see, therefore it is easy to see the broken window as economically beneficial. However, the “benefits” of the broken window are revealed as an illusion when one takes into account what is not seen: the businesses and workers who would have benefited had the store owner not spent money repairing a window, but rather had been free to spend his money as he chose.

Similarly, the beneficiaries of Eximbank are visible to all. What is not seen is the products that would have been built, the businesses that would have been started, and the jobs that would have been created had the funds used for the Eximbank been left in the hands of consumers. Leaving the resources in the private sector ensures the resources will be put to the use most highly valued by individual consumers. In contrast, when the government diverts resources into the public sector via programs such as the Eximbank, their use is determined by bureaucrats and politically powerful special interests, resulting in a distorted market and a misallocation of resources. By distorting the market and preventing resources from achieving their highest valued use, Eximbank actually costs Americans jobs and reduces America’s standard of living!

Some supporters of this bill equate supporting Eximbank with supporting “free trade,” and claim that opponents are “protectionists” and “isolationists.” Mr. Chairman, this is nonsense, Eximbank has nothing to do with free trade. True free trade involves the peaceful, voluntary exchange of goods across borders, not forcing taxpayers to subsidize the exports of politically powerful companies. Eximbank is not free trade, but rather managed trade, where winners and losers are determined by how well they please government bureaucrats instead of how well they please consumers.

Finally, Mr. Chairman, I would like to remind my colleagues that there is simply no constitutional justification for the expenditure of funds on programs such as Eximbank. In fact, the drafters of the Constitution would be horrified to think the Federal Government was taking hard-earned money from the American people in order to benefit the politically powerful.

In conclusion, Mr. Chairman, Eximbank distorts the market by allowing government bureaucrats to make economic decisions in place of individual consumers. Eximbank also violates basic principles of morality, by forcing working Americans to subsidize the trade of wealthy companies that could easily afford to subsidize their own trade, as well as subsidizing brutal governments like Red China and the Sudan. Eximbank also violates the limitations on congressional power to take the property of individual citizens and use it to benefit powerful special interests. It is for these reasons

that I urge my colleagues to reject H.R. 5068, the Export-Import  
Bank Reauthorization Act.

RON PAUL.

